

Decision Notice 147/2020

Financial administration and non-domestic rates– failure to respond

The Applicant

Public authority: Moray Council

Case Ref: 202001114



Scottish Information
Commissioner

Summary

The Applicant asked Moray Council (the Council) for information about financial administration and non-domestic rates. This decision finds that the Council failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Council failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

Background

1. On 4 June 2020, the Applicant made an information request to Council.
2. On 15 June 2020, the Council sought clarification of the information request.
3. The following day, the Applicant provided the Council with clarification.
4. The Council did not respond to the information request.
5. On 14 August 2020, the Applicant wrote to the Council requiring a review in respect of its failure to respond.
6. The Applicant did not receive a response to his requirement for review.
7. The Applicant wrote to the Commissioner on 22 September 2020, stating that he was dissatisfied with the Council's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. On the same day, the Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
9. In response, the Council acknowledged that it had failed to respond to the Applicant's request for a review issued a response to the Applicant with an apology for the delay.

Commissioner's analysis and findings

10. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information. This is subject to qualifications which are not relevant in this case.
11. It is a matter of fact that the Council did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
12. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review. Again, this is subject to qualifications which are not relevant in this case.
13. It is a matter of fact that the Council did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
14. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.

15. The Council responded to the Applicant's requirement for review on 22 September 2020, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

Decision

The Commissioner finds that Moray Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2020 (FOISA) in dealing with the information request made by the Applicant. In particular, the Council failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) of 21(1) of FOISA.

The Commissioner does not require the Council to take any action in respect of these failures in response to the Applicant's application, given that a review response was issued.

Appeal

Should either the Applicant or the Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Claire Stephen
Deputy Head of Enforcement

25 November 2020

Scottish Information Commissioner

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