

Decision Notice

Decision 122/2014 Mrs Lynne Bauld and East Dunbartonshire Council

Equality Impact Assessment Report: failure to respond within statutory timescales

Reference No: 201400939

Decision Date: 11 June 2014



Scottish Information
Commissioner

Summary

On 20 February 2014, Mrs Bauld asked East Dunbartonshire Council (the Council) for the Equality Impact Assessment Reports relating to primary class sizes and the reduction of classroom assistant ratios. This decision finds that the Council failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

The Commissioner has ordered the Council to comply with the requirement for review.

Background

Date	Action
20 February 2014	Mrs Bauld made an information request to the Council.
19 March 2014	The Council responded to the information request.
20 March 2014	Mrs Bauld wrote to the Council requiring a review of its decision.
20 March 2014	Although Mrs Bauld received an automated acknowledgement, she did not receive a response to her requirement for review.
30 April 2014	Mrs Bauld wrote to the Commissioner, stating that she was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
20 May 2014	The Council was notified in writing that an application had been received from Mrs Bauld and was invited to comment on the application.
4 June 2014	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. The Council acknowledged that it had not complied with the relevant timescale in FOISA, and confirmed that a review response would be sent to Mrs Bauld. The Council had not responded to Mrs Bauld by the time of this decision.
2. 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. This is subject to qualifications which are not relevant in this case.
3. It is a matter of fact that the Council did not provide a response to Mrs Bauld's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
4. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Council failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

Decision

The Commissioner finds that East Dunbartonshire Council failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mrs Bauld. In particular, the Council failed to respond to Mrs Bauld's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires the Council to provide Mrs Bauld with a response to her requirement for review, by **Monday 28 July 2014**.

Appeal

Should either Mrs Bauld or East Dunbartonshire 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.

Euan McCulloch
Deputy Head of Enforcement
11 June 2014

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