

Decision Notice

Decision 144/2018: Ms D and Fife Council

Number of people recorded as homeless at time of death from 2008 – 2017: failure to respond within statutory timescales

Reference No: 201801322

Decision Date: 26 September 2018



Scottish Information
Commissioner

Summary

On 3 April 2018, Ms D asked Fife Council (the Council) for information about the number of people who were recorded as homeless at the time of their death. This decision finds that the Council failed to respond to Ms D's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
3 April 2018	Ms D made an information request to the Council.
11 April 2018	The Council responded to the information request.
11 April 2018	Ms D wrote to the Council, requiring a review of its response.
	Ms D did not receive a response to her requirement for review.
3 August 2018	Ms D wrote to the Commissioner's Office, stating that she was dissatisfied with the Council's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA
28 August 2018	The Council was notified in writing that an application had been received from Ms D and was invited to comment on the application.
11 September 2018	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the Council did not provide a response to Ms D's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. The Council responded to Ms D's requirement for review on 7 September 2018, with an apology for the delay, so the Commissioner does not require it to take any further action in relation to Ms D's application.

Decision

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

The Commissioner does not require the Council to take any action in respect of this failure, in response to Ms D's application, given that the Council issued a review and an apology for the delay on 7 September 2018.

Appeal

Should either Ms D 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.

Euan McCulloch
Deputy Head of Enforcement

26 September 2018

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info