

# Decision Notice 063/2022

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## **Contract between Fife Council and Homes Together – failure to respond**

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**Applicant: The Applicant**

**Public authority: Fife Council**

**Case Ref: 202200234**



Scottish Information  
Commissioner

## Summary

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The Applicant asked the Council for a copy of the contract between Fife Council and Homes Together. 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

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1. The Applicant made an information request to the Council on 1 November 2021. Part 1 of the request was a Subject Access Request (SAR), relating to the Applicant's personal data, covered by the UK General Data Protection Regulation (UK GDPR). Part 2 of the request, subject to FOISA, asked for a copy of the Council's contract with Homes Together.
2. The Council acknowledged receipt of the request on 4 November 2021, advising that it considered Part 1 to be subject to the UK GDPR while Part 2 was subject to FOISA, and that the two parts would be dealt with separately under the relevant legislation.
3. The Council did not respond to the information request covered by FOISA, which is the subject of this Decision Notice.
4. On 3 December 2022, the Applicant wrote to the Council, requiring a review in respect of its failure to respond.
5. The Applicant did not receive a response to her requirement for review.
6. On 2 February 2022, the Applicant wrote to the Commissioner, stating that she 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.
7. On 22 February 2022, the Council was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
8. The Commissioner received submissions from the Council on 25 February 2022. These submissions are considered below.

## Commissioner's analysis and findings

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9. The Council acknowledged that it had failed to respond to the request and requirement for review within the statutory timescales.
10. It explained that the timescale for responding had not been met due to the complexities of the initial request, one part being a freedom of information request, subject to FOISA, and the other being a SAR, subject to the UK GDPR.
11. It also explained that staff workload pressures had contributed to the delay in responding and that measures were now in place, including staff recruitment, to address the issue.
12. 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.

13. 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.
14. 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.
15. 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.
16. The Council responded to the Applicant's requirement for review on 24 February 2022, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

## **Decision**

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The Commissioner finds that Fife Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (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) and 21(1) of FOISA.

Given that the Council has since responded to the Applicant's request, the Commissioner does not require it to take any further action in respect of these failures, in response to the Applicant's application.

## **Appeal**

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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.

**Euan McCulloch**  
**Deputy Head of Enforcement**

**13 June 2022**

**Scottish Information Commissioner**

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