

Decision Notice 036/2022

Fire incident and fire inspections relating to a specified location – failure to respond

Applicant: The Applicant

Public authority: Scottish Fire and Rescue Service

Case Ref: 202200057



Summary

The Applicant asked the Scottish Fire and Rescue Service (SFRS) for:

- the exact date and information about a fire incident, at a specified location, on or around 4 July 2020; and
- details of fire inspections, relating to that location, for the years 2019, 2020 and 2021.

This decision finds that SFRS failed to respond to the requests within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that SFRS failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

Background

1. The Applicant made two information requests to SFRS on 23 and 24 July 2021.
2. SFRS did not respond to the information requests.
3. On 10 September 2021, the Applicant wrote to SFRS requiring a review of its failure to respond to either request.
4. The Applicant did not receive a response to his requirement for review.
5. On 13 January 2022, the Applicant wrote to the Commissioner, stating that he was dissatisfied with SFRS's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. On 14 January 2022, SFRS was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. The Commissioner received submissions from SFRS. These submissions are considered below.

Commissioner's analysis and findings

8. SFRS acknowledged that it had failed to respond to the requests or requirement for review within the statutory timescales and apologised.
9. For the first request (seeking the date and information about the fire incident), SFRS described the process it had followed to identify the information requested, which had contributed to the delay in responding. It explained that, as no incident number or date had been provided, a time-consuming manual search had to be undertaken to locate the correct incident.
10. SFRS submitted that, on identifying the correct incident, it was unclear, from the records held, whether all investigations (relating to the fire in question) had concluded. As SFRS considered it necessary to ascertain this before the information could be released, further enquiries had to be conducted to establish this.
11. SFRS acknowledged that the Applicant should have been updated on the progress of his request and apologised for this.

12. SFRS provided no separate submissions in respect of the Applicant's second request (seeking fire inspection reports).
13. SFRS submitted that the requirement for review had failed to automatically attach to the Applicant's case and so was not picked up, which would have prompted it to take further action and respond. It explained it was trying to establish, with its Information and Communication Technology team, the reason for the failure, and that an additional manual check was being implemented to avoid any future recurrence.
14. 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.
15. It is a matter of fact that SFRS did not provide a response to the Applicant's requests for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
16. 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.
17. It is a matter of fact that SFRS 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.
18. SFRS responded to the Applicant's requirement for review, in respect of the request of 23 July 2021, on 27 January 2022, with an explanation and apology for its failure to respond.
19. SFRS responded to the Applicant's requirement for review, in respect of the request of 24 July 2021, on 18 March 2022.
20. The Commissioner therefore does not require SFRS to take any further action in relation to the Applicant's application of 13 January 2022.

Decision

The Commissioner finds that the Scottish Fire and Rescue Service (SFRS) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information requests made by the Applicant. In particular, SFRS failed to respond to the Applicant's requests for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require SFRS to take any action in respect of these failures in response to the Applicant's application, given that responses were issued on 27 January 2022 and 18 March 2022.

Appeal

Should either the Applicant or SFRS 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.

Wendy Snedden
Freedom of Information Officer

30 March 2022

Scottish Information Commissioner

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