

Decision Notice 057/2022

Council tax online form complaint – failure to respond

Applicant: The Applicant

Public authority: South Lanarkshire Council

Case Ref: 202200348



Scottish Information
Commissioner

Summary

The Applicant asked South Lanarkshire Council (the Council) for information about an investigation, resulting from a complaint made by the Applicant, regarding the failure of the Council's online application form to correctly record information submitted in respect of a council tax reduction. 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. The Applicant made an information request to the Council on 23 October 2021.
2. The Council responded to the information request on 15 December 2021.
3. On 19 December 2021, the Applicant wrote to the Council requiring a review of its decision.
4. The Applicant did not receive a response to his requirement for review.
5. As the Applicant had still not received a response, he wrote again to the Council on 9 January 2022 and 3 March 2022 asking it to review its handling of his request.
6. Having still received no response, on 22 March 2022, the Applicant wrote to the Commissioner, stating that he 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.
7. On 24 March 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 7 April 2022. These submissions are considered below.

Commissioner's analysis and findings

9. The Council acknowledged that it had failed to respond to the request and requirement for review within the statutory timescales.
10. It further acknowledged that it did not respond to the initial request in terms of FOISA but as part of ongoing correspondence (relating to the Applicant's earlier complaint about the online council tax form).
11. The Council explained that the requirement for review was not identified by its Finance and Corporate Resources department as a request for review under FOISA, but as a review of the Applicant's earlier complaint. As a result, it was not passed to the Council's Review Panel to consider.
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 remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
17. The Council responded to the Applicant's requirement for review on 26 April 2022, in respect of the request of 23 October 2021. The Commissioner therefore does not require the Council to take any further action in relation to the Applicant's application of 22 March 2022.
18. The Commissioner recommends that the Council considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

Decision

The Commissioner finds that South Lanarkshire 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.

The Commissioner does not require the Council to take any action in respect of these failures, given that a response was issued on 26 April 2022.

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.

Wendy Snedden
Freedom of Information Officer

26 May 2022

Scottish Information Commissioner

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