

Decision Notice

Decision 088/2014 Mr Chris Musson and Moray Council

Websites blocked in schools: failure to carry out a review when required

Reference No: 201400792

Decision Date: 23 April 2014



Scottish Information
Commissioner

Summary

On 19 March 2014, Mr Musson asked Moray Council (the Council) for information about websites blocked by schools. This decision finds that the Council failed to comply with a requirement for review, as required by section 21(1) of the Freedom of Information (Scotland) Act 2002 (FOISA).

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

Background

Date	Action
19 March 2014	Mr Musson made an information request to the Council.
4 April 2014	The Council responded to the information request, providing a link to the information on its website.
8 April 2014	Mr Musson emailed the Council requiring a review of its decision.
8 April 2014	The Council responded that it did not accept a review was required.
8 April 2014	Mr Musson emailed the Commissioner's Office, stating that he was dissatisfied that the Council refused to conduct a review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
15 April 2014	The Council was notified in writing that an application had been received from Mr Musson and was invited to comment on the application.
16 April 2014	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. The Council confirmed to the investigating officer that it did not carry out a review as it did not consider that a review was necessary in this case, the information having been made available on its website. It disputed that Mr Musson had any grounds for dissatisfaction and explained its reasons for refusing to conduct a review.
3. In his requirement for review, Mr Musson provided a description of the matter which gave rise to his dissatisfaction, as required by section 20(3)(c)(ii) of FOISA. It is a matter of fact that the Council did not carry out a review in response to Mr Musson'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 Moray Council (the Council) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Musson. In particular, she finds that the Council failed to carry out a review in accordance with section 21 of FOISA.

The Commissioner requires the Council to provide Mr Musson with a response to his request for review, in accordance with section 21 of FOISA, by 9 June 2014.

Appeal

Should either Mr Musson or Moray Council wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement
23 April 2014

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