

Decision Notice

Decision 120/2017: Miss Hattie Wilde and the Scottish Further and Higher Education Funding Council

Credit funding target – Edinburgh College: failure to respond within statutory timescales

Reference No: 201701086

Decision Date: 31 July 2017



Scottish Information
Commissioner

Summary

On 27 February 2017, Ms Wilde asked the Scottish Further and Higher Education Funding Council (SFHEFC) for information relating to Edinburgh College's credit funding target for 2016-17. This decision finds that SFHEFC failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that SFHEFC failed to comply with Ms Wilde's requirement for review within the timescale set down by FOISA.

Background

Date	Action
27 February 2017	Ms Wilde made an information request to SFHEFC.
6 March 2017	SFHEFC acknowledged the information request, but did not respond.
4 May 2017	Ms Wilde wrote to SFHEFC, requiring a review in respect of its failure to respond.
24 May 2017	SFHEFC acknowledged the requirement for review, but did not respond.
	Ms Wilde did not receive a response to her requirement for review.
18 June 2017	Ms Wilde wrote to the Commissioner's Office, stating that she was dissatisfied with SFHEFC's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
4 July 2017	SFHEFC was notified in writing that an application had been received from Ms Wilde and was invited to comment on the application.
18 July 2017	The Commissioner received submissions from SFHEFC. These submissions are considered below.

Commissioner's analysis and findings

1. When contacted by the Commissioner, SFHEFC acknowledged that it had failed to provide responses to Ms Wilde's information request and requirement for review. It explained that significant delays in responding to the request and requirement for review were attributable to an unprecedented increase in requests received since the beginning of the year.
2. SFHEFC notified the Commissioner that a response to the request for information was issued to Ms Wilde on 26 June 2017. A copy was provided to the Commissioner.
3. 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.
4. It is a matter of fact that SFHEFC did not provide a response to Ms Wilde's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

5. 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.
6. It is a matter of fact that SFHEFC did not provide a response to Ms Wilde's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. SFHEFC responded to Ms Wilde's request for information on 26 June 2017, so the Commissioner does not require it to take any further action in relation to Ms Wilde's application. In terms of section 21(4)(c) of FOISA, that response constitutes a review outcome and Ms Wilde is not required to seek a further review if she is dissatisfied with the decision.
8. The Commissioner notes that SFHEFC has apologised to Ms Wilde for its delay in responding.

Decision

The Commissioner finds that the Scottish Further and Higher Education Funding Council (SFHEFC) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms Wilde. In particular, SFHEFC failed to respond to Ms Wilde'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 SFHEFC to take any action in respect of these failures, in response to Ms Wilde's application, given that it has now issued a response.

Appeal

Should either Ms Wilde or the Scottish Further and Higher Education Funding 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

31 July 2017

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