

Decision Notice

Decision 131/2018: Mr B and Highland Council

Disabled Parking Bays: failure to respond within statutory timescales

Reference No: 201801315

Decision Date: 23 August 2018



Scottish Information
Commissioner

Summary

Highland Council (the Council) was asked for the number of “enforceable” and “unenforceable” on-street/road disabled parking bays provided during the past 2 years, along with the number of bays allocated as “resident only”.

This decision finds that the Council failed to respond to the request and requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
19 April 2018	Mr B made an information request to the Council. He received an automated acknowledgement the same day.
21 May 2018	Mr B wrote to the Council, requiring a review in respect of its failure to respond.
28 May 2018	Mr B did not receive a response to his requirement for review, but instead was asked by the Council to clarify his request.
28 May 2018	Mr B dissatisfied at being asked to clarify the request at this late stage, again asked for a review to be carried out.
4 June 2018	Mr B sent a reminder, as he had still not received a response to his request.
4 August 2018	Mr B wrote to the Commissioner’s Office, stating that he 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.
8 August 2018	The Council was notified in writing that an application had been received from Mr B and was invited to comment on the application.
22 August 2018	The Commissioner received submissions from the Council. These submissions are considered below.

Commissioner’s analysis and findings

1. When contacted by the Commissioner, the Council acknowledged and apologised that it had not responded to Mr B’s request or requirement for review. It noted a training gap it had identified in the relevant service, which it confirmed it would be addressing (including the handling of reviews).
2. Mr B was issued with his review outcome on 14 August 2018. The Commissioner was provided a copy.

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 the Council did not provide a response to Mr B'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 the Council did not provide a response to Mr B's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. As the Council responded to Mr B's requirement for review on 14 August 2018, the Commissioner does not require it to take any further action in relation to his application.
8. The Commissioner notes that the Council has apologised to Mr B for its failures to comply.

Decision

The Commissioner finds that 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 B. In particular, the Council failed to respond to Mr B'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, in response to Mr B's application, given that a response has now been issued.

Appeal

Should either Mr B or Highland Council (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

23 August 2018

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info