



Scottish Information
Commissioner
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Decision Notice 142/2025

Third Party Audited Reports – failure to respond

Applicant: The Applicant

Authority: Scottish Legal Complaints Commission

Case Ref: 202500632

Summary

The Applicant asked the Authority for information about third party audited reports verifying “fairness, transparency and efficiency” of the Scottish Legal Complaints Commission. This decision finds that the Authority failed to respond to the request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 3 February 2025.
2. The Authority did not respond to the information request.
3. On 19 March 2025, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Commissioner on 28 April 2025, stating that he was dissatisfied with the Authority’s failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 29 April 2025.
8. The Commissioner received submissions from the Authority on 29 April 2025.
9. The Applicant sought a review on 19 March 2025, on the basis that the Authority failed to respond to their initial request. The Authority told the Commissioner that it had not received the Applicant's request because it had taken the decision to "block" his email address and advised the Applicant that it would only accept correspondence from him by post.
10. The Authority explained that the applicant had been made aware in January 2025 that it was taking this action and that it would no longer accept emails from him in line, with its unacceptable user policy.
11. The Authority confirmed (following notification from the Commissioner's office) that it would process the information request. The Applicant provided the Commissioner with a copy of the response issued to him on 7 May 2025. The Applicant has sought a review of the response.
12. The Commissioner is required to come to a conclusion, on the balance of probabilities, as to whether the information request and requirement for review were received by the Authority. In the light of the information provided by the Authority, he is satisfied that these emails were received, notwithstanding the measures that had been put in place to block any emails the Authority received from the Applicant. In the circumstances, the Commissioner has concluded that the Authority did not comply with section 10(1) and 21(1) of FOISA in relation to the Applicant's request and requirement for review, in that it failed to respond to either.
13. The Authority issued a response on 7 May 2025 and invited the Applicant to submit a review should he be dissatisfied with the outcome. The Commissioner does not require it to take any further action in relation to the Applicant's application.
14. While the Commissioner has found that the Applicant's communications were received by the Authority in this case, the Applicant may still find it more straightforward to make future requests by post rather than email (in line with the actions taken by the Authority under its unacceptable user policy).

Decision

The Commissioner finds that the Authority 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 Authority 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. Given that the Authority has now responded to the Applicant, he does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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
Head of Enforcement

11 June 2025