

# Decision Notice



Decision 031/2014 Mr Laurel Bush and Highland Council

Minutes of Caithness Wards Business Meetings: failure to respond within statutory timescales

Reference No: 201400024

Decision Date: 17 February 2014

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**Rosemary Agnew**

Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews KY16 9DS  
Tel: 01334 464610



## Summary

On 3 November 2013, Mr Bush asked Highland Council (the Council) for minutes of Caithness Wards Business Meetings from 1 July 2013 onwards. The decision finds that the Council failed to comply with Mr Bush's request for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
3 November 2013	Mr Bush made an information request to the Council.
5 November 2013	The Council responded to the information request
15 November 2013	Mr Bush wrote to the Council requesting a review of its decision.
	Although Mr Bush received an acknowledgement on 20 November 2013, he did not receive a response to his requirement for review.
4 January 2014	Mr Bush wrote to the Commissioner's Office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
10 January 2014	The Council was notified in writing that an application had been received from Mr Bush and was invited to comment on the application.
10 February 2014	The Commissioner received submissions from the Council. Its submissions are considered below.



## Commissioner's analysis and findings

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1. The Council informed the Commissioner that it had now carried out a review of its response to Mr Bush's request and its review response had been sent to him on 10 February 2014. A copy of the response was provided to the Commissioner. Mr Bush confirmed he had received it.
2. 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.
3. It is a matter of fact that the Council did not provide a response to Mr Bush's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
4. Given that the Council responded to Mr Bush's requirement for review on 10 February 2014, the Commissioner does not require it to take any further action in relation to Mr Bush's application.

## DECISION

The Commissioner finds that Highland 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 Bush. In particular, the Council failed to respond to Mr Bush's requirement for review within the timescales laid down by section 21(1) of FOISA.

Given that the Council has now responded to Mr Bush's requirement for review, the Commissioner does not require the Council to take any action in response to this failure.

## Appeal

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Should either Mr Bush or Highland 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.

**Alison Davies**  
**Deputy Head of Enforcement**  
**17 February 2013**