

# Decision Notice

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**Decision 096/2015: Councillor Gordon Blair and Argyll and Bute Council**

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**CCTV footage of Rothesay Harbour: failure to respond within statutory timescales**

Reference No: 201500932

Decision Date: 24 June 2015



Scottish Information  
Commissioner

## Summary

On 19 May 2015, Councillor Blair asked Argyll and Bute Council (the Council) for the CCTV footage of Rothesay Harbour for a specified period on 3 March 2015. This decision finds that the Council failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
4 March 2015	Councillor Blair made an information request to the Council.
5 March 2015	The Council acknowledged Councillor Blair's information request.
11 April 2015	Councillor Blair wrote to the Council to confirm that he had received a disc containing information, but pointing out that this was not the information he asked for on 4 March (the CCTV footage was for the wrong date). The disk was received by Councillor Blair "just after 5 March". It was clear from the email that he still expected a response to his request of 4 March 2015.
14 April 2015	The Council acknowledged Councillor Blair's email of 11 April 2015, confirming that the matter would be looked into.
23 April 2015	Councillor Blair wrote to the Council, requiring a review in respect of its failure to respond.
23 April 2015	A partial response was provided to Councillor Blair concerning the CCTV footage. He was asked to confirm if he required a full review in relation to the handling of his original request.
23 April 2015	Councillor Blair confirmed that he did wish a review.
5 May 2015	The Council responded to Councillor Blair's requirement for review.
19 May 2015	Councillor Blair wrote to the Commissioner, 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.
18 June 2015	The Council was notified in writing that an application had been received from Councillor Blair and was invited to comment on the application.
19 June 2015	The Commissioner received submissions from the Council. These submissions are considered below.

## Commissioner's analysis and findings

1. The Council accepted that a formal response had not been issued to Councillor Blair's information request when the disk containing information was provided to him. The disk was sent in response to an earlier request, but unfortunately the 4 March request had been closed down at the same time. The Council apologised for this error in the review outcome.

2. The Council explained the confusion surrounding this request. Councillor Blair made an earlier request for CCTV footage (the footage dated 15 January 2015). The FOI Team dealing with the current request was informed that Councillor Blair had already been sent CCTV footage and assumed this was the footage asked for in his request of 4 March 2015. The request was then closed down, without a formal response being sent to Councillor Blair.
3. The Council confirmed that the matter was raised with the service dealing with this request, which was reminded that a formal notice must be issued to requestors before closing any case in the Council's database.
4. 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.
5. It is a matter of fact that the Council did not provide a response to Councillor Blair's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

## Decision

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The Commissioner finds that Argyll and Bute 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 Councillor Blair. In particular, the Council failed to respond to Councillor Blair'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 Councillor Blair's application, given that Councillor Blair was responded to on 23 April 2015.

## Appeal

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Should either Councillor Blair or Argyll and Bute 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**

**24 June 2015**

**Scottish Information Commissioner**

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