

Decision Notice

Decision 155/2014 Mr George Watson and the Scottish Ministers

Details of overseas visits: failure to respond within statutory timescales

Reference No: 201401349

Decision Date: 11 July 2014



Scottish Information
Commissioner

Summary

On 16 April 2014, Mr Watson asked the Scottish Ministers (the Ministers) for details of the First Minister's overseas visits. This decision finds that the Ministers failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Ministers failed to comply with Mr Watson's requirement for review within the timescale set down by FOISA.

The Commissioner ordered the Ministers to comply with the requirement for review.

Background

Date	Action
16 April 2014	Mr Watson made an information request to the Ministers.
	Although Mr Watson received an acknowledgement on 16 May 2014, the Ministers did not respond to the information request.
19 May 2014	Mr Watson wrote to the Ministers, requiring a review in respect of their failure to respond.
	Again, although Mr Watson received an acknowledgement on 19 May 2014, he did not receive a response to his requirement for review.
23 June 2014	Mr Watson wrote to the Commissioner's Office, stating that he was dissatisfied with the Ministers' failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
26 June 2014	The Ministers were notified in writing that an application had been received from Mr Watson and were invited to comment on the application.
11 July 2014	The Commissioner received submissions from the Ministers. These submissions are considered below.

Commissioner's analysis and findings

1. The Ministers acknowledged that they had not responded to Mr Watson's requirement for review within the statutory timescales.
2. The Ministers confirmed that a response would be issued to Mr Watson. This had not been done by the time of this decision.
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 Ministers did not provide a response to Mr Watson's request for information within 20 working days, so the Commissioner finds that they 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 Ministers did not provide a response to Mr Watson's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Ministers failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

Decision

The Commissioner finds that the Scottish Ministers (the Ministers) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Watson. In particular, they failed to respond to Mr Watson's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner therefore requires the Ministers to provide Mr Watson with a response to his requirement for review, by **Monday 25 August 2014**.

Appeal

Should either Mr Watson or the Scottish Ministers 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.

Enforcement

If the Scottish Ministers fail to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Scottish Ministers have failed to comply. The Court has the right to inquire into the matter and may deal with the Scottish Ministers as if they had committed a contempt of court.

Euan McCulloch
Deputy Head of Enforcement
11 July 2014

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info