

Decision Notice

Decision 093/2015: Mr Andrew Learmonth and Chief Constable of the Police Service of Scotland

Correspondence with Sheriff Principal: failure to respond within statutory timescales

Reference No: 201500931

Decision Date: 23 June 2015



Scottish Information
Commissioner

Summary

On 25 February 2015, Mr Learmonth asked the Chief Constable of the Police Service of Scotland (Police Scotland) for correspondence between Sir Stephen House and Sheriff Principal Brian Lockhart over a specified period. This decision finds that Police Scotland failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Police Scotland failed to comply with Mr Learmonth's requirement for review within the timescale set down by FOISA.

Background

Date	Action
25 February 2015	Mr Learmonth made an information request to Police Scotland.
25 February 2015	Police Scotland asked for clarification of the request. Mr Learmonth clarified on the same day.
1 April 2015	Mr Learmonth wrote to Police Scotland, requiring a review in respect of their failure to respond.
13 April 2015	Although Police Scotland sent an acknowledgement to Mr Learmonth, he did not receive a response to his requirement for review.
19 May 2015	Mr Learmonth wrote to the Commissioner's Office, stating that he was dissatisfied with Police Scotland's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
3 June 2015	Police Scotland were notified in writing that an application had been received from Mr Learmonth and were invited to comment on the application.
	Police Scotland did not provide the Commissioner with any submissions.
11 June 2015	Mr Learmonth notified the investigating officer that Police Scotland had disclosed the requested information to him.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that Police Scotland did not provide a response to Mr Learmonth's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.
3. 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.

4. It is a matter of fact that Police Scotland did not provide a response to Mr Learmonth's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
5. Given that Police Scotland have now responded to Mr Learmonth's requirement for review, the Commissioner does not require them to take any further action in relation to these failures, in response to Mr Learmonth's application.

Decision

The Commissioner finds that the Chief Constable of the Police Service of Scotland (Police Scotland) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Learmonth. In particular, Police Scotland failed to respond to Mr Learmonth'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 Police Scotland to take any action in respect of these failures, in response to Mr Learmonth's application, given that a response has now been issued.

Appeal

Should either Mr Learmonth or Police Scotland 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 June 2015

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info