

Decision Notice



Decision 087/2012 Mr K and the Scottish Criminal Cases Review Commission

Failure to respond to request for review

Reference No: 201200800
Decision Date: 16 May 2012

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
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Summary

This decision considers whether the Scottish Criminal Cases Review Commission (the SCCRC) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request made by Mr K.

Background

1. On 13 February 2012, Mr K wrote to the SCCRC requesting certain specified information.
2. The SCCRC responded on 6 March 2012.
3. On 14 March 2012, Mr K wrote to the SCCRC requesting a review of its decision.
4. Mr K did not receive a response to his requirement for review and, on 23 April 2012, 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.
5. The application was validated by establishing that Mr K had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

Investigation

6. On 30 April 2012, the SCCRC was notified in writing that an application had been received from Mr K and was invited to comment on the application.
7. The SCCRC responded on 3 May 2012 and its submissions are considered in the Commissioner's analysis and findings below. It confirmed that it had issued a response to Mr K's requirement for review the previous day. Mr K subsequently confirmed receipt of this response on 9 May 2012.



Commissioner's analysis and findings

8. 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, subject to certain exceptions which are not relevant in this case.
9. Since the SCCRC did not provide a response to Mr K's requirement for review within 20 working days, the Commissioner finds that it failed to comply with section 21(1) of FOISA.
10. The SCCRC explained that it had investigated this failure to respond and had found that it had been caused by an administrative oversight: the procedure for registering the requirement for review on the automated case management system had not been completed by the responsible officer, which meant that the reviewer did not receive notification of the requirement.
11. The SCCRC also confirmed that it had identified a need for further training on the case management system, which staff on the administration team had since received. In addition, it had updated the administration team handbook, including a procedure note on the processing of all new FOI requests.
12. In the circumstances, noting that Mr K has since received a response to his requirement for review, the Commissioner does not require the SCCRC to take any further action in this particular case.

DECISION

The Commissioner finds that the Scottish Criminal Cases Review Commission (the SCCRC) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr K, in particular by failing to respond to his requirement for review within the timescale laid down by section 21(1) of FOISA.

Given that the SCCRC has now carried out a review and communicated the outcome to Mr K, the Commissioner does not require the SCCRC to take any action in respect of this failure in response to Mr K's application.



Appeal

Should either Mr K or the Scottish Criminal Cases Review Commission wish to appeal against this decision, there is an 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 notice.

Euan McCulloch
Deputy Head of Enforcement
16 May 2012



Appendix

Relevant statutory provisions

21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.

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