

Decision Notice



Decision 294/2013 Mr Michael Roulston and the Scottish Police Authority

Transitional arrangements for ACPOS rank officers: failure to respond within statutory timescale

Reference No: 201302858

Decision Date: 19 December 2013

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
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St Andrews KY16 9DS
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Summary

This decision considers whether the Scottish Police Authority (the SPA) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request made by Mr Roulston on 18 March 2013.

Background

1. On 18 March 2013, Mr Roulston wrote to the SPA requesting certain specified information.
2. The SPA responded on 17 April 2013, providing further information on 26 April 2013.
3. On 30 April 2013, Mr Roulston wrote to the SPA requesting a review of its decision.
4. Although Mr Roulston received an acknowledgement confirming that the SPA had received his requirement for review, the SPA did not respond to it.
5. On 3 December 2013, Mr Roulston wrote to the Commissioner's Office, stating that he was dissatisfied with the SPA's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that Mr Roulston made a request for information to a Scottish public authority and 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

7. On 5 December 2013, the SPA was notified in writing that an application had been received from Mr Roulston and was invited to comment on the application.
8. The SPA responded on 16 December 2013 and its submissions are considered in the Commissioner's analysis and findings below.



Commissioner's analysis and findings

9. The SPA acknowledged that it had not responded to Mr Roulston's requirement for review and apologised for the failure. It attempted to place this in context, but confirmed that it was taking steps to ensure it did not happen again.
10. The SPA confirmed that a response would be sent to Mr Roulston: this had not been done by the time of this decision.
11. 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 qualifications which are not relevant in this case.
12. Since the SPA did not provide a response to Mr Roulston's requirement for review within 20 working days, the Commissioner finds that it failed to comply with section 21(1) of FOISA.
13. 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 SPA failed to discharge these requirements: she now requires a review to be carried out in accordance with them.

DECISION

The Commissioner finds that the Scottish Police Authority (the SPA) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr Roulston, in particular by failing to respond to Mr Roulston's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner therefore requires the SPA to provide Mr Roulston with a response to his requirement for review, in accordance with the requirements of section 21 of FOISA, by **3 February 2014**.



Appeal

Should either Mr Roulston or the Scottish Police Authority 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
19 December 2013



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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