

Decision Notice

Decision 185/2014: Mr Michael Roulston and Her Majesty's Chief Inspector of Constabulary

Monitoring of mandatory qualifications held by newly-appointed senior police officers: failure to respond within statutory timescales

Reference No: 201401343

Decision Date: 26 August 2014



Scottish Information
Commissioner

Summary

On 10 April 2014, Mr Roulston asked Her Majesty's Chief Inspector of Constabulary (HMICS) for information about the monitoring of all chief officer appointments in relation to a mandatory qualification. This decision finds that HMICS failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
10 April 2014	Mr Roulston made an information request to HMICS.
12 May 2014	HMICS responded to the information request.
12 May 2014	Mr Roulston wrote to HMICS requiring a review of its decision.
	Mr Roulston did not receive a response to his requirement for review.
1 July 2014	Mr Roulston emailed the Commissioner's Office, stating that he was dissatisfied with HMICS's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
4 August 2014	HMICS was notified in writing that an application had been received from Mr Roulston and was invited to comment on the application.
19 August 2014	HMICS issued a review response to Mr Roulston.
25 August 2014	The Commissioner received submissions from HMICS. These submissions are considered below.

Commissioner's analysis and findings

1. 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. This is subject to qualifications which are not relevant in this case.
2. In his submissions, HMICS stated that it did not consider Mr Roulston's correspondence dated 12 May 2014 to be a request for review, and had treated it as a new request for information.
3. Section 20(3) of FOISA sets out the requirements of a valid request for review. It must:
 - Be in writing or in another form which is capable of being used for subsequent reference
 - State the name of the applicant and an address for correspondence, and

- Specify the request for information to which the requirement for review relates, and the matter which gives rise to the requester's dissatisfaction with the way in which the authority has dealt with that request.
4. Having considered the terms of Mr Roulston's correspondence dated 12 May 2014, the Commissioner is satisfied that it does fulfil the requirements of section 20(3) of FOISA and is a valid request for review.
 5. Therefore, it is a matter of fact that HMICS did not provide a response to Mr Roulston's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
 6. Given that HMICS responded to Mr Roulston's requirement for review on 19 August 2014, the Commissioner does not require any further action in relation to Mr Roulston's application.

Decision

The Commissioner finds that Her Majesty's Chief Inspector of Constabulary (HMICS) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Roulston. In particular, HMICS failed to respond to Mr Roulston's requirement for review within the timescales laid down by sections 21(1) of FOISA.

The Commissioner does not require HMICS to take any action in respect of this failure, in response to Mr Roulston's application, given that a review response has now been issued.

Appeal

Should either Mr Roulston or HMICS 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.

Alison Davies

Deputy Head of Enforcement

26 August 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