

Decision Notice

Decision 115/2018: Mr S and the Scottish Police Authority

Reciprocal arrangements with independent arbiter: failure to respond within statutory timescales

Reference No: 201800741
Decision Date: 24 July 2018



Scottish Information
Commissioner

Summary

The Scottish Police Authority (the SPA) was asked for information in relation to reciprocal arrangements with an independent arbiter. This decision finds that the SPA failed to respond to the request and request for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
26 February 2018	Mr S made an information request to the SPA.
	The SPA did not respond to the information request.
27 March 2018	Mr S wrote to the SPA requiring a review of its failure to respond.
	Mr S did not receive a response to his email requiring a review of the SPA's failure to respond.
27 April 2018	Mr S wrote to the Commissioner's Office, stating that he was dissatisfied with the SPA's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
1 June 2018	The SPA was notified in writing that an application had been received from Mr S and was invited to comment on the application.
11 and 13 June 2018 and 6 July 2018	The Commissioner received submissions from the SPA. These submissions are considered below.

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 the SPA did not provide a response to Mr S' request for information of 26 February 2018 within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
3. The SPA stated that it had not received Mr S' initial request of 26 February 2018. It had received a similar request from Mr S in 2017, to which it had responded. The SPA conducted a search of its email records but found no record of the request of 26 February 2018. The SPA acknowledged that it had received Mr S' email of 27 March 2018, sent to the same email address as his request of 26 February 2018.
4. Given that the SPA received Mr S' email of 27 March 2018, which was sent to the same email address as his request of 26 February 2018, the Commissioner find that, on the

balance of probabilities, the email of 26 February was received by the SPA even though no trace of it was found in its searches.

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 SPA did not provide a response to Mr S' request for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. The SPA provided a review response to Mr S on 16 July 2018. Accordingly, the Commissioner does not require the SPA to take any further action in relation to Mr S' application.

Decision

The Commissioner finds that the SPA failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr S. In particular, the SPA failed to respond to Mr S request for information and request for review within the timescales laid down by section 10(1) and 21(1) of FOISA.

The Commissioner does not require the SPA to take any action in respect of this failure, in response to Mr S' application, given that the SPA responded on 16 July 2018 to Mr S' request for review.

Appeal

Should either Mr S or the SPA 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

24 July 2018

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