

Decision Notice



Decision 192/2012 Mr Michael Williams and the Scottish Ministers

Failure to comply with timescales

Reference No: 201201901

Decision Date: 23 November 2012

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
Tel: 01334 464610



Summary

This decision considers whether the Scottish Ministers (the Ministers) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request made by Mr Williams.

Background

1. On 10 May 2012, Mr Williams wrote to the Ministers requesting certain specified information. He sent further emails on 17 May 2012 and 18 June 2012, and sent further letters on 24 May and 31 May 2012, asking why there was a delay in answering his request.
2. The Ministers acknowledged Mr Williams' request on 19 June 2012, stating that they had only received his request in the post on 11 June 2012. The Ministers apologised for not dealing with his request more promptly, explaining that they could not find a record of any earlier correspondence from Mr Williams.
3. The Ministers responded to Mr Williams' request on 13 July 2012, providing weblinks to certain published information.
4. On 16 July 2012, Mr Williams wrote to the Ministers requesting a review of their decision.
5. The Ministers responded to Mr Williams' review requirement on 23 July 2012, disclosing some further information.
6. Mr Williams wrote again to the Ministers on 25 July 2012 stating his dissatisfaction with the time taken to respond to his initial request.
7. The Ministers responded again to Mr Williams on 8 August, accepting that they had failed to respond timeously to his request and explaining again that they had not received a request from him until 11 June 2012. The Ministers accepted that they should have responded within 20 working days of receipt of his request (and had sought to do so) but due to the considerable volume of correspondence being received a delay had occurred. The Ministers apologised again and stated that they had since reminded staff of the need to adhere to the timescales in responding to information requests.



8. Mr Williams remained dissatisfied with the time taken by the Ministers to respond to his initial request and further correspondence with the Ministers followed. He wrote to the Commissioner's Office on 27 September 2012, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
9. The application was validated by establishing that Mr Williams 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

10. On 23 October 2012, the Ministers were notified in writing that an application had been received from Mr Williams and were invited to comment on the application.
11. At the time of writing this decision, the Commissioner had not received any comments from the Ministers.

Commissioner's analysis and findings

12. 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, subject to certain exceptions which are not relevant in this case.
13. As indicated above, no submissions were received from the Ministers in this case. From the information available to her, the Commissioner is not satisfied that the email addresses used by Mr Williams were viable Scottish Government contact addresses. He may wish to note the relevant contact information on the Scottish Government website:
<http://www.scotland.gov.uk/Contacts>
14. Nevertheless, Mr Williams also sent his requests by post – on 24 and 31 May – and the Commissioner finds it surprising that these were not received until 11 June. In any event, even allowing for the request being received on 11 June, the Ministers took more than 20 working days to respond.
15. Since the Ministers did not provide a response to Mr Williams's request for information within 20 working days, the Commissioner finds that they failed to comply with section 10(1) of FOISA. In the absence of relevant submissions, apart from the explanations given to Mr Williams by the Ministers, it would not be appropriate for the Commissioner to surmise why this failure occurred.



16. Given that the Ministers have now responded to Mr Williams's request, the Commissioner does not require them to take any further action in this case, in response to Mr Williams' application.

DECISION

The Commissioner finds that the Ministers failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr Williams, in particular by failing to respond to Mr Williams' request for information within the timescale laid down by section 10(1) of FOISA.

Given that the Ministers have now responded to Mr Williams' request, the Commissioner does not require them to take any action in respect of this failure, in response to Mr Williams' application.

Appeal

Should either Mr Williams or the Scottish Ministers 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
23 November 2012



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

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10 Time for compliance

- (1) Subject to subsections (2) and (3), a Scottish public authority receiving a request which requires it to comply with section 1(1) must comply promptly; and in any event by not later than the twentieth working day after-

- (a) in a case other than that mentioned in paragraph (b), the receipt by the authority of the request; or

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