

Decision Notice



Decision 015/2014 Mr Simon Johnson and the Scottish Ministers

Breakdown cost of trip to the Ryder Cup: failure to respond within statutory timescales

Reference No: 201400137
Decision Date: 3 February 2014

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Scottish Information Commissioner

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Summary

On 16 October 2013, Mr Johnson asked the Scottish Ministers (the Ministers) for a breakdown of the cost of Team Scotland's visit to the US in relation to the 2012 Ryder Cup. This decision finds that the Ministers failed to respond to the request and request for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Given that the Ministers have responded to Mr Johnson's request and requirement for review, the Commissioner does not require the Ministers to take any action in response to these failures.

Background

| Date | Action |
|-----------------|---|
| 16 October 2013 | Mr Johnson made an information request to the Ministers. |
| 30 October 2013 | Having initially advised Mr Johnson (16 October 2013) that they did not hold the information he had asked for, the Ministers wrote to Mr Johnson on 30 October 2013 advising that they did in fact hold the information and that his request would now be processed and a new response issued. The Ministers apologised to Mr Johnson for this oversight. |
| 9 December 2013 | As no response was issued, Mr Johnson wrote to the Ministers requesting a review in respect of their failure to respond. |
| | Mr Johnson did not receive a response to his requirement for review. |
| 20 January 2014 | Mr Johnson wrote to the Commissioner, stating that he was dissatisfied with this failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. |
| 29 January 2014 | The Ministers were notified in writing that an application had been received from Mr Johnson and were invited to comment on the application. |
| 29 January 2014 | The Commissioner received submissions from the Ministers. Their submissions are considered below. |



Commissioner's analysis and findings

1. The Ministers informed the Commissioner that Mr Johnson's review had now been carried out and their response emailed to him on 24 January 2014. A copy of the response was provided to the Commissioner.
2. 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.
3. It is a matter of fact that the Ministers did not provide a response to Mr Johnson's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA. (The Commissioner has disregarded the initial, incorrect response from the Ministers.)
4. 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.
5. It is a matter of fact that the Ministers did not provide a response to Mr Johnson's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
6. Given that the Ministers responded to Mr Johnson's requirement for review on 24 January 2014, the Commissioner does not require them to take any further action in relation to Mr Johnson's application.

DECISION

The Commissioner finds that the Ministers failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Johnson. In particular they failed to respond to Mr Johnson's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that the Ministers have now responded to Mr Johnson's request and requirement for review, the Commissioner does not require the Ministers to take any action in response to these failures.

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and the Scottish Ministers



Appeal

Should either Mr Johnson or the Scottish Ministers 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.

Rosemary Agnew
Scottish Information Commissioner
3 February 2013