

# Decision Notice

---

## Decision 129/2014 Mr Peter Bevington and the Scottish Ministers

---

### **Comments about the Northern Isles Ferry Service: failure to respond within statutory timescales**

Reference No: 201401124

Decision Date: 16 June 2014



Scottish Information  
Commissioner

## Summary

On 5 February 2014, Mr Bevington asked the Scottish Ministers (the Ministers) for information relating to the Northern Isles Ferry Service. This decision finds that the Ministers failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Ministers failed to comply with Mr Bevington's requirement for review within the timescale set down by FOISA.

As the Ministers complied with the requirement for review during the investigation the Commissioner does not require any action to be taken in response to these breaches.

## Background

Date	Action
5 February 2014	Mr Bevington made an information request to the Ministers.
	The Ministers did not respond to the information request.
27 March 2014	Mr Bevington wrote to the Ministers, seeking a review in respect of their failure to respond.
	Mr Bevington did not receive a response to his requirement for review.
23 May 2014	Mr Bevington wrote to the Commissioner, stating that he was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
28 May 2014	The Ministers were notified in writing that an application had been received from Mr Bevington and were invited to comment on the application.
11 June 2014	The Commissioner received submissions from the Ministers. 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 Ministers did not provide a response to Mr Bevington's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.

3. 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.
4. It is a matter of fact that the Ministers did not provide a response to Mr Bevington's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
5. The Ministers responded to Mr Bevington's requirement for review on 11 June 2014, so the Commissioner does not require them to take any further action in respect of this breach, in response to Mr Bevington'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 Bevington. In particular, the Ministers failed to respond to Mr Bevington's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that the Ministers have now complied with the requirement for review, the Commissioner does not require them to take any action in respect of these failures, in response to Mr Bevington's application.

## **Appeal**

---

Should either Mr Bevington 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.

**Euan McCulloch**  
**Deputy Head of Enforcement**  
**16 June 2014**

**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews, Fife  
KY16 9DS

t 01334 464610

f 01334 464611

[enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**