

Decision Notice

Decision 197/2014: Mr Paul Hutcheon and Scottish Fire and Rescue Service

Gifts, Hospitality and Expenses: failure to respond within statutory timescales

Reference No: 201401996

Decision Date: 10 September 2014



Scottish Information
Commissioner

Summary

On 1 May 2014, Mr Hutcheon asked the Scottish Fire and Rescue Service (SFRS) for information about gifts and hospitality received by Board Members, and claimed expenses. This decision finds that SFRS failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that SFRS failed to comply with Mr Hutcheon's requirement for review within the timescale set down by FOISA.

Background

Date	Action
1 May 2014	Mr Hutcheon made an information request to SFRS.
2 May 2014 and 11 June 2014	Although SFRS acknowledged the request, and then provided a further update on the status of the request, it did not respond to the information request.
25 June 2014	Mr Hutcheon wrote to SFRS, requiring a review in respect of its failure to respond.
	Mr Hutcheon did not receive a response to his requirement for review.
11 August 2014	Mr Hutcheon wrote to the Commissioner's Office, stating that he was dissatisfied with SFRS's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
13 August 2014	SFRS was notified in writing that an application had been received from Mr Hutcheon and was invited to comment on the application.
29 August and 4 September 2014	The Commissioner received submissions from SFRS. 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 SFRS did not provide a response to Mr Hutcheon's request for information within 20 working days, so the Commissioner finds that it 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 SFRS did not provide a response to Mr Hutcheon's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. SFRS responded to Mr Hutcheon's requirement for review on 29 August 2014, so the Commissioner does not require it to take any further action in relation to Mr Hutcheon's application.
6. SFRS identified technical issues which meant that Mr Hutcheon's requirement for review was not received in the appropriate part of the authority. It described the measures put in place to ensure this did not happen again.

Decision

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

The Commissioner does not require the Ministers to take any action in respect of these failures, in response to Mr Hutcheon's application, given that SFRS has now responded.

Appeal

Should either Mr Hutcheon or the Scottish Fire and Rescue Service 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

10 September 2014

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