

Decision Notice

Decision 110/2017: Ms Katy Sutherland and the Scottish Ministers

Travel Expenses: failure to respond within statutory timescales

Reference No: 201700975

Decision Date: 11 July 2017



Scottish Information
Commissioner

Summary

On 8 March 2017, the Scottish Ministers (the Ministers) was asked for a list and breakdown of all travel and subsistence expenses claimed by the former Minister for Europe and International Development, Humza Yousef, for trips outside the United Kingdom between 5 September 2012 and 18 May 2016.

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 the requirement for review within the timescale set down by FOISA.

Background

Date	Action
8 March 2017	Ms Sutherland made an information request to the Ministers.
	The Ministers did not respond to the information request.
11 April 2017	Ms Sutherland wrote to the Ministers, requiring a review in respect of their failure to respond.
11 April 2017	The Ministers acknowledged Ms Sutherland's requirement for review, but she did not receive a response to it.
2 May 2017	As Ms Sutherland had still not received a response, she sent a further requirement for review.
4 May 2017	Again, although Ms Sutherland received an acknowledgement, she did not receive a response to her request.
30 May 2017	Ms Sutherland wrote to the Commissioner's office, stating that she was dissatisfied with the Minister's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
15 June 2017	The Ministers was notified in writing that an application had been received from Ms Sutherland and was invited to comment on the application.
30 June 2017	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 Ms Sutherland's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.

3. The Ministers explained that the delay in responding to Ms Sutherland's request was caused by the request getting lost, at a period of significant staff turnover. The Ministers accepted that this should not have happened. They also explained that the response was further delayed by information having to be collated from different areas and from various information systems within the Scottish Government.
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 Ms Sutherland's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
6. The Ministers notified the Commissioner that a review response was issued to Ms Sutherland on 29 June 2017, with an apology for the delay in responding. A copy was provided to the Commissioner. The Commissioner does not require the Ministers to take any further action in relation to Ms Sutherland's application.

Decision

The Commissioner finds that the Scottish Ministers (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 Ms Sutherland. In particular, the Ministers failed to respond to Ms Sutherland'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 Ms Sutherland's application, given that a response has now been issued.

Appeal

Should either Ms Sutherland 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

11 July 2017

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