

# Decision Notice

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## Decision 108/2018: Mr L and the Scottish Police Authority

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**Legal fees: failure to respond within statutory timescales**

Reference No: 201800822

Decision Date: 12 July 2018



Scottish Information  
Commissioner

## Summary

The Scottish Police Authority (the SPA) was asked for information in relation to legal fees. This decision finds that the SPA 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 SPA failed to comply with the requirement for review within the timescale set down by FOISA.

The Commissioner has ordered the SPA to comply with the requirement for review.

## Background

Date	Action
31 January 2018	Mr L made an information request to the SPA.
7 February 2018	The SPA asked Mr L to confirm details relating to his request.
7 February 2018	Mr L provided the SPA with confirmation of the details of his request.
	The SPA did not provide a response to the information request.
10 April 2018	Mr L wrote to the SPA, requiring a review in respect of its failure to respond.
13 April 2018	The SPA wrote to Mr L, confirming that his requests had been received and that a response would be provided as soon as possible.
	Mr L did not receive a response to his requirement for review.
15 May 2018	Mr L wrote to the Commissioner's Office, stating that he was dissatisfied with the SPA's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
20 June 2018	The SPA were notified in writing that an application had been received from Mr L and were invited to comment on the application.
	The SPA did not provide the Commissioner with any submissions.

## 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 SPA did not provide a response to Mr L'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 the SPA did not provide a response to Mr L's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the SPA failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
6. The Commissioner recommends that the SPA considers whether it would be appropriate to apologise to Mr L for its failure to comply.

## Decision

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

The Commissioner requires the SPA to provide a review outcome by **Monday 27 August 2018**.

## Appeal

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Should either Mr L or the Scottish Police Authority 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.

## Enforcement

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If the Scottish Police Authority (the SPA) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the SPA has failed to comply. The Court has the right to inquire into the matter and may deal with the SPA as if it had committed a contempt of court.

**Euan McCulloch**  
**Deputy Head of Enforcement**

**12 July 2018**

**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)**