

# Decision Notice

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## **Decision 110/2018: Mr M and the Scottish Police Authority**

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### **Minutes of specific meetings: failure to respond within statutory timescales**

Reference No: 201800854

Decision Date: 16 July 2018



Scottish Information  
Commissioner

## Summary

The Scottish Police Authority (the SPA) was asked for information in relation to draft minutes of specific meetings. 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
20 February 2018	Mr M made an information request to the SPA.
13 April 2018	The SPA responded to the information request. The requested information was withheld in terms of section 30(b)(i) and (ii) of FOISA.
13 April 2018	Mr M wrote to the SPA requiring a review of its decision to withhold the requested information.
	Mr M did not receive a response to his requirement for review.
21 May 2018	Mr M wrote to the Commissioner's Office, stating that he was dissatisfied with the SPA's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
26 June 2018	The SPA were notified in writing that an application had been received from Mr M and was invited to comment on the application.
10 July 2018	The SPA provided submissions (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 SPA did not provide a response to Mr M'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 M'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 SPA has explained to the Commissioner the reasons why it had fallen behind in responding to information requests, and what action it has taken to remedy this situation.
7. The Commissioner recommends that the SPA considers whether it would be appropriate to apologise to Mr M for its failure to comply.

## Decision

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The Commissioner finds that 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 M. In particular, the SPA failed to respond to Mr M'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 **Thursday 30 August 2018**.

## Appeal

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Should either Mr M or the SPA 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 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.

**Alison Davies**  
**Deputy Head of Enforcement**

**16 July 2018**

**Scottish Information Commissioner**

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