

Decision Notice

Decision 092/2018: Mr N and the Chief Constable of the Police Service of Scotland

Particulars of serving police officers: failure to respond within statutory timescales

Reference No: 201800756

Decision Date: 27 June 2018



Scottish Information
Commissioner

Summary

This decision considers whether Police Scotland complied with the requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to a requirement for review.

Background

Date	Action
23 February 2018	Mr N made an information request to Police Scotland.
13 March 2018	Police Scotland responded to the information request.
16 March 2018	Mr N wrote to Police Scotland, requiring a review of their decision.
1 May 2018	Mr N wrote to the Commissioner's Office, stating that he was dissatisfied with Police Scotland's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
7 June 2018	Police Scotland were notified in writing that an application had been received from Mr N and were invited to comment on the application.
7 and 8 June 2018	The Commissioner received submissions from Police Scotland. These submissions are considered below.

Commissioner's analysis and findings

1. 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. This is subject to qualifications which are not relevant in this case.
2. Mr N sought a review on 16 March 2018 but, as he appeared not to receive a response, he applied to the Commissioner for a decision.
3. Police Scotland provided the Commissioner with a copy of the letter they said had been sent to Mr N as soon as they were notified of Mr N's application.
4. Police Scotland were also able to provide the Commissioner with evidence, from their internal audit system, showing that the review outcome was prepared and approved on 12 April 2018. Staff from Police Scotland confirmed that the letter was posted to Mr N on 12 April 2018.
5. The Commissioner is required to come to a conclusion, on the balance of probabilities, as to whether the letter was sent on 12 April 2018. In the light of the information provided by Police Scotland, he is satisfied that it was. As such, the Commissioner has concluded that Police Scotland complied with section 21(1) in responding to Mr N's requirement for review.
6. Given that Police Scotland responded to Mr N's requirement for review on 12 April 2018, the Commissioner does not require them to take any further action in relation to Mr N's application.

Decision

The Commissioner finds that the Chief Constable of the Police Service of Scotland (Police Scotland) complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in dealing with the information request made by Mr N.

The Commissioner does not require Police Scotland to take any action in respect of this failure, in response to Mr N's application, given that a review response was issued.

Appeal

Should either Mr N or the Chief Constable of the Police Service of Scotland 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.

Margaret Keyse
Head of Enforcement

27 June 2018

Scottish Information Commissioner

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