

Decision Notice

Decision 009/2015: Public and Commercial Services Union and The Board of Trustees of the National Museums of Scotland

Various requests relating to recruitment: failure to respond within statutory timescales

Reference No: 201402876

Decision Date: 19 January 2015



Scottish Information
Commissioner

Summary

On 3 June 2014, the Public and Commercial Services Union (the Union) asked the Board of Trustees of the National Museums of Scotland (the Board of Trustees) for information about new posts created across the National Museums of Scotland. This decision finds that the Board of Trustees failed to comply with the Union's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
3 June 2014	The Union made an information request to the Board of Trustees.
11 August 2014	The Board of Trustees provided a partial response to the information request. The remainder of the response was provided on 15 August 2014.
1 September 2014	The Union wrote to the Board of Trustees requiring a review of its decision.
12 September 2014	Although the Union received an acknowledgement it did not receive a response to its requirement for review.
18 December 2014	The Union applied to the Commissioner's Office for a decision, and clarified on 8 January 2015 that it was dissatisfied with the Board of Trustees' failure to respond and wished to apply to the Commissioner for a decision in terms of section 47(1) of FOISA.
14 January 2015	The Board of Trustees was notified in writing that an application for a decision had been received from the Union and was invited to comment on the application.
19 January 2015	The Commissioner received submissions from the Board of Trustees. 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. It is a matter of fact that the Board of Trustees did not provide a response to the Union's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. The Board of Trustees responded to the Union's requirement for review on 16 January 2015, so the Commissioner does not require it to take any further action in relation to the Union's application.

4. The Board of Trustees acknowledged that it had failed to respond to the Union's requirement for review, and apologised to the Union for the delay in responding.

Decision

The Commissioner finds that Board of Trustees of the National Museums of Scotland (the Board of Trustees) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the requirement for review from the Public and Commercial Services Union (the Union) within the timescale laid down by sections 21(1) of FOISA.

The Commissioner does not require the Board of Trustees to take any action in respect of this failure, in response to the Union's application, given that a review response has now been issued.

Appeal

Should either Public and Commercial Services Union or the Board of Trustees of the National Museums 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.

Alison Davies

Deputy Head of Enforcement

19 January 2015

Scottish Information Commissioner

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