

# Decision Notice



Decision 063/2014 Mr Tom Gordon and the Scottish Ministers

Meetings between Ministers and Proprietors, Editors and Media Executives:  
Failure to respond within statutory timescales

Reference No: 201400344  
Decision Date: 14 March 2014

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**Rosemary Agnew**  
Scottish Information Commissioner

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## Summary

On 15 November 2013, Mr Gordon asked the Scottish Ministers (the Ministers) for information about meetings between Ministers and Proprietors, Editors and Media Executives up to 31 August 2013. This decision finds that the Ministers failed to respond to the request within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Ministers failed to comply with Mr Gordon's requirement for review within the timescales set down by FOISA.

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

## Background

Date	Action
15 November 2013	Mr Gordon made an information request to the Ministers.
	The Ministers did not respond to the information request.
17 December 2013	Mr Gordon wrote to the Ministers requiring a review in respect of their failure to respond.
	Although Mr Gordon received an acknowledgement on 22 January 2014, he did not receive a response to his requirement for review.
13 February 2014	Mr Gordon wrote to the Commissioner's Office, stating that he was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
26 February 2014	The Ministers were notified in writing that an application had been received from Mr Gordon and were invited to comment on the application.
12 March 2014	The Commissioner received submissions from the Ministers. Their submissions are considered below.



## Commissioner's analysis and findings

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1. The Ministers acknowledged that they had not responded to Mr Gordon's requirement for review within the statutory timescale.
2. The Ministers confirmed that a response would be issued to Mr Gordon. This had not been done by the time of this decision.
3. 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.
4. It is a matter of fact that the Ministers did not provide a response to Mr Gordon's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.
5. 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.
6. It is a matter of fact that the Ministers did not provide a response to Mr Gordon's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. 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 Ministers failed to discharge these requirements: she now requires a review to be carried out in accordance with section 21.

## 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 Mr Gordon. In particular, they failed to respond to Mr Gordon's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner therefore requires the Ministers to provide Mr Gordon with a response to his requirement for review, by **28 April 2014**.

Decision 063/2014  
Mr Tom Gordon  
and the Scottish Ministers



## **Appeal**

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Should either Mr Gordon 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.

**Alison Davies**  
**Deputy Head of Enforcement**  
**14 March 2014**