

Decision Notice

Decision 076/2017: Mr Dean Herbert and the Chief Constable of the Police Service of Scotland

Information relating to expenditure on official credit cards: failure to respond within statutory timescales

Reference No: 201700470

Decision Date: 15 May 2017



Scottish Information
Commissioner

Summary

On 28 November 2016, the Chief Constable of the Police Service of Scotland (Police Scotland) was asked for information about expenditure on official credit cards. This decision finds that Police Scotland failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Police Scotland failed to comply with Mr Herbert's requirement for review within the timescale set down by FOISA.

Background

Date	Action
28 November 2016	Mr Herbert made an information request to Police Scotland.
29 November 2016	Police Scotland acknowledged receipt but did not respond to the information request.
9 February 2017	Mr Herbert wrote to Police Scotland requiring a review of their failure to respond.
	Mr Herbert did not receive a response to his requirement for review.
13 March 2017	Mr Herbert 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.
24 March 2017	Police Scotland was notified in writing that an application had been received from Mr Herbert and were invited to comment on the application.
31 March 2017	The Commissioner received confirmation from Police Scotland that it had not responded to Mr Herbert's request.
28 April 2017	Police Scotland issued a response and apology to Mr Herbert.
10 May 2017	The Commissioner received a copy of Police Scotland's apology and response to Mr Herbert.

Commissioner's analysis and findings

1. When contacted by the Commissioner, Police Scotland confirmed that they had failed to comply with Mr Herbert's request for information and subsequent requirement for review. They explained that the delay was attributable to the significant amount of correspondence and sensitive information related to the request.
2. Police Scotland notified the Commissioner that a review response was issued to Mr Herbert on 28 April 2017. A copy was provided to the Commissioner on 10 May 2017.
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 Police Scotland did not provide a response to Mr Herbert'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 Police Scotland did not provide a response to Mr Herbert's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. Police Scotland issued an apology and responded to Mr Herbert's requirement for review on 28 April 2017. The Commissioner does not require them to take any further action in relation to Mr Herbert's application.

Decision

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

The Commissioner does not require Police Scotland to take any action in respect of these failures, in response to Mr Herbert's application, given that a response has now been issued.

Appeal

Should either Mr Herbert or Police 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

15 May 2017

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