

Decision Notice

Decision 109/2014 Daniel Quinn and the Scottish Ministers

Notification to Parliament: failure to respond within statutory timescales

Reference No: 201400895

Decision Date: 23 May 2014



Scottish Information
Commissioner

Summary

On 22 January 2014, Mr Quinn asked the Scottish Ministers (the Ministers) if the Cabinet Secretary for Rural Affairs and the Environment had notified the Parliament about certain matters concerning his office. This decision finds that the Ministers 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 Ministers failed to comply with Mr Quinn's requirement for review within the timescale set down by FOISA.

Background

Date	Action
22 January 2014	Mr Quinn made an information request to the Ministers.
	The Ministers did not respond to the information request.
24 March 2014	Mr Quinn wrote to the Ministers requiring a review of their failure to respond.
	Mr Quinn did not receive a response to his requirement for review.
27 April 2014	Mr Quinn 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.
7 May 2014	The Ministers were notified in writing that an application had been received from Mr Quinn and were invited to comment on the application.
21 May 2014	The Commissioner received submissions from the Ministers. These submissions are considered below.

Commissioner's analysis and findings

1. The Ministers informed the Commissioner that they had carried out a review of Mr Quinn's request and had emailed it to him on 21 May 2014. A copy of the response was provided to the Commissioner. The Ministers explained to the Commissioner and to Mr Quinn that his request had not been recognised as an FOI request, and it was believed that Mr Quinn's concerns had been answered in previous correspondence.
2. 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.
3. It is a matter of fact that the Ministers did not provide a response to Mr Quinn's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.
4. 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.

5. It is a matter of fact that the Ministers did not provide a response to Mr Quinn's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
6. Given that the Ministers responded to Mr Quinn's requirement for review on 21 May 2014, the Commissioner does not require them to take any further action in relation to Mr Quinn's application.

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

Given that the Ministers have now responded to Mr Quinn's request and requirement for review, the Commissioner does not require the Ministers to take any action in response to these failures.

Appeal

Should either Mr Quinn 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
23 May 2014

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info