

Decision Notice

Decision 129/2015: Mr Alan Johnston and the Scottish Fire and Rescue Service

Fire service promotions: failure to respond within statutory timescales

Reference No: 201501246

Decision Date: 18 August 2015



Scottish Information
Commissioner

Summary

On 18 April 2015, Mr Johnston asked the Scottish Fire and Rescue Service (the SFRS) for information about promotions in the fire service. This decision finds that the SFRS 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 SFRS failed to comply with Mr Johnston's requirement for review within the timescale set down by FOISA.

Background

Date	Action
18 April 2015	Mr Johnston made an information request to the SFRS.
	The SFRS did not respond to the information request.
1 June 2015	Mr Johnston wrote to the SFRS, requiring a review in respect of its failure to respond.
8 June 2015	Although Mr Johnston received an acknowledgement, he did not receive a response to his requirement for review.
3 July 2015	Mr Johnston wrote to the Commissioner's Office, stating that he was dissatisfied with the SFRS's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
29 July 2015	The SFRS was notified in writing that an application had been received from Mr Johnston and was invited to comment on the application.
12 August 2015	The Commissioner received submissions from the SFRS. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the SFRS did not provide a response to Mr Johnston's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
3. 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.
4. It is a matter of fact that the SFRS did not provide a response to Mr Johnston's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. The SFRS acknowledged that it had received Mr Johnston's request, and explained the particular staffing and communication issues which had impaired its ability to respond timeously. The SFRS confirmed it was taking steps to address these.
6. The SFRS responded to Mr Johnston's requirement for review on 12 August 2015, so the Commissioner does not require it to take any further action in relation to Mr Johnston's application.
7. The Commissioner notes that the SFRS apologised to Mr Johnston for the length of time taken to respond.

Decision

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

Given that the SFRS has now provided Mr Johnston with a response to his requirement for review, the Commissioner does not require the SFRS to take any action in respect of these failures, in response to Mr Johnston's request.

Appeal

Should either Mr Johnston or the Scottish Fire and Rescue Service 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.

Euan McCulloch
Deputy Head of Enforcement

18 August 2015

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info