

Decision Notice

Decision 159/2014 Mr Tom Gordon and the Scottish Ministers

Ryder Cup invitations: failure to respond within statutory timescales

Reference No: 201401372 and 201401396

Decision Date: 17 July 2014



Scottish Information
Commissioner

Summary

On 1 April 2014, Mr Gordon made two requests for information to the Scottish Ministers (the Ministers) for information about invitations issued by the First Minister and responses received to those invitations. This decision finds that the Ministers failed to respond to both requests 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 Gordon's requirements for review within the timescale set down by FOISA.

Background

Date	Action
1 April 2014	Mr Gordon made two information requests to the Ministers.
	The Ministers did not respond to either information request.
6 May 2014	Mr Gordon wrote to the Ministers, requiring a review in respect of their failure to respond to either request.
25 June 2014	Mr Gordon wrote to the Commissioner's Office in respect of each request, stating that he was dissatisfied with the Ministers' failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
30 June and 1 July 2014	The Ministers were notified in writing that the two applications had been received from Mr Gordon and were invited to comment on both of them.
15 July 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 for both of Mr Gordon's requests, and emailed the outcome to him on 15 July 2014. A copy of the response was provided to the Commissioner. The Ministers apologised for the delay in providing a response.
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 Gordon's requests 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 Gordon's requirements 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 Gordon's requirements for review on 15 July 2014, the Commissioner does not require them to take any further action in relation to Mr Gordon's applications.

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

Given that the Ministers responded to Mr Gordon's requirements for review on 15 July 2014, the Commissioner does not require the Ministers to take any further action in respect of these failures, in response to Mr Gordon's applications.

Appeal

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.

Euan McCulloch
Deputy Head of Enforcement
17 July 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