

# Decision Notice

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## Decision 187/2014: Paul Hutcheon and the Scottish Ministers

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### **Breakdown of spending on Bute House: Failure to respond within statutory timescales**

Reference No: 201401994

Decision Date: 28 August 2014



Scottish Information  
Commissioner

## Summary

On 7 April 2014, Mr Paul Hutcheon asked the Scottish Ministers (the Ministers) for information about a breakdown on spending on Bute House. 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 Hutcheon's requirement for review within the timescale set down by FOISA.

## Background

Date	Action
7 April 2014	Mr Hutcheon made an information request to the Ministers.
	The Ministers did not respond to the information request.
2 June 2014	Mr Hutcheon wrote to the Ministers, requiring a review in respect of their failure to respond.
	Mr Hutcheon did not receive a response to his requirement for review.
11 August 2014	Mr Hutcheon wrote to the Commissioner's Office, stating that he was dissatisfied with the Minister's failures to respond and applied to the Commissioner for a decision in terms of section 47(1) of FOISA.
12 August 2014	The Ministers were notified in writing that an application had been received from Mr Hutcheon and were invited to comment on the application.
27 August 2014	The Commissioner received submissions from the Ministers. 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 Ministers did not provide a response to Mr Hutcheon's request for information within 20 working days, so the Commissioner finds that they 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 Ministers did not provide a response to Mr Hutcheon's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.

5. The Ministers responded to Mr Hutcheon's requirement for review on 26 August 2014, so the Commissioner does not require them to take any further action in relation to Mr Hutcheon's application.

## Decision

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The Commissioner finds that the Scottish 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 Hutcheon. In particular, they failed to respond to Mr Hutcheon'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 the Ministers to take any action in respect of these failures, in response to Mr Hutcheon's application, given that the Ministers have now responded to his requirement for review.

## Appeal

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Should either Mr Hutcheon 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**  
**28 August 2014**

**Scottish Information Commissioner**

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