

Decision Notice



Decision 025/2010 Mr Peter Petersen and Grampian Joint Police Board

Failure to respond to request and request for review

Reference No: 200902095

Decision Date: 23 February 2010

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Kevin Dunion

Scottish Information Commissioner

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Summary

This decision considers whether Grampian Joint Police Board (the Board) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request made by Mr Petersen.

Background

1. On 24 September 2009, Mr Petersen wrote to the Board requesting a range of information concerning Board policies and protocols, information relating to a specified complaint and the numbers of complaints made against Grampian Police within a specified time period.
2. Mr Petersen did not receive a response to his request and on 26 October 2009, he wrote to the Board asking that it review its failure to respond to his request.
3. Mr Petersen did not receive a response to his request for review and on 5 December 2009, wrote to the Commissioner stating that he was dissatisfied with the Board's failure to respond to his request for information and requirement for review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
4. The application was validated by establishing that Mr Petersen had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request. The case was then allocated to an investigating officer.

Investigation

5. On 21 December 2009, the Board was notified in writing that an application had been received from Mr Petersen and was invited to comment on the application as required by section 49(3)(a) of FOISA. The Board was also provided with a copy of Mr Petersen's request and requirement for review.
6. The Board responded on 14 January 2010 explaining that there had been a lengthy history of correspondence with Mr Petersen concerning a specified matter. The Board stated that it had previously responded to a similar request from Mr Petersen by advising him that the requested information was not held by it and, as such, no further action had been taken in response to his latest request.



7. The Board acknowledged that it ought to have issued an appropriate decision notice to Mr Petersen and would arrange for this to be issued within the next 7 days.
8. A response dated 19 January 2009 (erroneously, since it was sent in January 2010) was subsequently issued to Mr Petersen, following which he confirmed that he had received the Board's response. However he remained dissatisfied with the manner in which his request and requirement for review had been handled and still required a decision from the Commissioner on the Board's earlier failure to respond to his request and requirement for review.

Commissioner's analysis and findings

9. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request, or subsequent clarification of that request, to comply with a request for information, subject to certain exceptions which are not relevant in this case.
10. The Board did not provide a substantive response to Mr Petersen's information request of 24 September 2009 within that timescale.
11. The Commissioner therefore finds that the Board failed to respond to Mr Petersen's request for information of 24 September 2009 within the 20 working days allowed under section 10(1) of FOISA.
12. Section 21(1) of FOISA gives public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for a review, again subject to exceptions which are not relevant to this case.
13. The Board did not provide a response to Mr Petersen's requirement for review of 26 October 2009 within that timescale.
14. The Commissioner therefore finds that the Board failed to respond to Mr Petersen's requirement for review of 26 October 2009 within the 20 working days allowed under section 21(1) of FOISA.
15. The Commissioner notes that a response has now been provided to Mr Petersen's request. In the circumstances, he does not require any action to be taken in relation to these breaches in response to this decision.



DECISION

The Commissioner finds that Grampian Joint Police Board (the Board) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by Mr Petersen, in particular by failing to respond to Mr Petersen's request for information and requirement for review within the respective timescales laid down by sections 10(1) and 21(1) of FOISA.

As a response has now been provided to Mr Petersen, the Commissioner does not require the Board to take any action in relation to these failures in response to this decision.

Appeal

Should either Mr Petersen or the Board wish to appeal against this decision, there is an 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 notice.

Claire Sigsworth
Deputy Head of Enforcement
23 February 2010



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

10 Time for compliance

- (1) Subject to subsections (2) and (3), a Scottish public authority receiving a request which requires it to comply with section 1(1) must comply promptly; and in any event by not later than the twentieth working day after-
- (a) in a case other than that mentioned in paragraph (b), the receipt by the authority of the request; or
- (b) in a case where section 1(3) applies, the receipt by it of the further information.

...

21 Review by Scottish public authority

- (1) Subject to subsection (2), a Scottish public authority receiving a requirement for review must (unless that requirement is withdrawn or is as mentioned in subsection (8)) comply promptly; and in any event by not later than the twentieth working day after receipt by it of the requirement.

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