

Decision Notice



Decision 285/2013 The Inverness Courier and the Scottish Fire and Rescue Service

Telecare: failure to respond within statutory timescales

Reference No: 201302798
Decision Date: 13 December 2013

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
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Summary

This decision considers whether the Scottish Fire and Rescue Service (the Service) complied with the technical requirements of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to an information request made by The Inverness Courier on 11 September 2013.

Background

1. On 11 September 2013, The Inverness Courier wrote to the Service requesting certain specified information.
2. Although The Inverness Courier received an acknowledgement confirming that the Service had received their request, the Service did not respond to the request.
3. On 15 October 2013, The Inverness Courier wrote to the Service requesting a review in respect of its failure to respond.
4. Again, although The Inverness Courier received an acknowledgement confirming that the Service had received their requirement for review, the Service did not respond to it.
5. The Inverness Courier did not receive a response to its requirement for review, and on 25 November 2013 wrote to the Commissioner's Office, stating that they were dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The application was validated by establishing that The Inverness Courier made a request for information to a Scottish public authority and 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

7. On 28 November 2013, the Service was notified in writing that an application had been received from The Inverness Courier and was invited to comment on the application.



8. The Service responded on 11 December 2013 and its submissions are considered in the Commissioner's analysis and findings below.

Commissioner's analysis and findings

9. The Service acknowledged that it had not responded to The Inverness Courier's request or requirement for review, explaining that this appeared to have been an oversight. The Service confirms that this had now been rectified, and that a review response would be sent to The Inverness Courier: this had not been done by the time of this decision.
10. 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, subject to certain qualifications which are not relevant in this case.
11. Since the Service did not provide a response to The Inverness Courier's request for information within 20 working days, the Commissioner finds that it failed to comply with section 10(1) of FOISA.
12. 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, subject to certain qualifications which are not relevant in this case.
13. Since the Service did not provide a response to The Inverness Courier's requirement for review within 20 working days, the Commissioner finds that it failed to comply with section 21(1) of FOISA.
14. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Service failed to discharge these requirements: she now requires a review to be carried out in accordance with them.

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and the Scottish Fire and Rescue Service



DECISION

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

The Commissioner therefore requires the Service to provide The Inverness Courier with a response to their requirement for review, in accordance with the requirements of section 21 of FOISA, by **27 January 2014**.

Appeal

Should either The Inverness Courier 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
13 December 2013



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.

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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

...

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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