

Decision Notice



Decision 036/2014 Mr Andrew Picken and the Scottish Ministers

Kelly Kar Hire London: failure to respond within statutory timescales

Reference No: 201400169

Decision Date: 19 February 2014

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Rosemary Agnew

Scottish Information Commissioner

Kinburn Castle
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Summary

On 2 November 2013, Mr Picken made requests to the Scottish Ministers (the Ministers) about invoices submitted to, and communications with, the First Minister's Office by Kelly Kar Hire London. This decision finds that the Ministers failed to respond to the requests within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Ministers failed to comply with Mr Picken's requests for review within the timescales set down by FOISA.

Background

Date	Action
2 November 2013	Mr Picken made two information requests to the Ministers.
	The Ministers did not respond to the information requests.
7 December 2013	Mr Picken wrote to the Ministers and submitted two requests for review of their failure to respond.
	Mr Picken did not receive a response to his requirements for review.
22 January 2014	Mr Picken wrote to the Commissioner's Office, stating that he was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
29 January 2014	The Ministers were notified in writing that an application had been received from Mr Picken and were invited to comment on the application.
13 February 2014	The Ministers provided the Commissioner with a copy of an email they had sent to Mr Picken earlier that day.



Commissioner's analysis and findings

1. The Ministers informed the Commissioner that Mr Picken's review had now been carried out for both requests, and their response emailed to him on 13 February 2014. A copy of the response was provided to the Commissioner.
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 Picken'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 Picken'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 Picken's requirements for review on 13 February 2014, the Commissioner does not require them to take any further action in relation to Mr Picken's application.

DECISION

The Commissioner finds that 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 Picken. In particular, they failed to respond to Mr Picken's requests for information and requirements for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that the Ministers have now responded to Mr Picken's requests and requirements for review, the Commissioner does not require the Ministers to take any action in response to these failures.

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Mr Andrew Picken
and the Scottish Ministers



Appeal

Should either Mr Picken 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. The appeal must be made within 42 days after the date of intimation of this decision.

Margaret Keyse
Head of Enforcement
19 February 2014