

Decision Notice



Decision 038/2014 Mr Jock Meikle and the Scottish Ministers

Bute House accommodation – benefit in kind: failure to respond within statutory timescales

Reference No: 201400141

Decision Date: 20 February 2014

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Rosemary Agnew

Scottish Information Commissioner

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Summary

On 5 November 2013, Mr Meikle made a request to the Scottish Ministers (the Ministers) asking if the First Minister's residence (Bute House) is treated as a "benefit in kind". This decision finds that the Ministers failed to respond to the request 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 Meikle's requirement for review within the timescales set down by FOISA.

Background

Date	Action
5 November 2013	Mr Meikle made an information request to the Ministers.
	The Ministers did not respond to the information request.
9 December 2013	Mr Meikle wrote to the Ministers requiring a review of their failure to respond.
	The Ministers did not respond to the requirement for review.
21 January 2014	Mr Meikle 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.
21 January 2014	The Ministers were notified in writing that an application had been received from Mr Meikle and were invited to comment on the application.
14 February 2014	The Ministers provided the Commissioner with a copy of a letter they had sent to Mr Meikle on 11 February 2013.



Commissioner's analysis and findings

1. On 14 February, the Ministers informed the Commissioner that Mr Meikle's review had now been carried out and their response sent to him on 11 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 Meikle's request 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 Meikle's requirement 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 Meikle's requirement for review on 11 February 2014, the Commissioner does not require them to take any further action in relation to Mr Meikle's application.

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

Given that the Ministers responded to Mr Meikle's requirement for review on 11 February 2014 the Commissioner does not require the Ministers to take any action in response to these failures.

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Jock Meikle
and the Scottish Ministers



Appeal

Should either Mr Meikle 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.

Margaret Keyse
Head of Enforcement
20 February 2014