

# Decision Notice

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## Decision 123/2014 Mr Andrew Picken and the Scottish Ministers

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**“Team Scotland” visit to Chicago and the Ryder Cup: failure to respond within statutory timescales**

Reference No: 201401043

Decision Date: 11 June 2014



Scottish Information  
Commissioner

## Summary

On 28 January 2014, Mr Picken asked the Scottish Ministers (the Ministers) for information about accommodation arrangements for officials and Ministers attending visits to Chicago and the Ryder Cup. 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 Picken's requirement for review within the timescale set down by FOISA.

## Background

Date	Action
28 January 2014	Mr Picken made an information request to the Ministers.
	The Ministers did not respond to the information request.
18 March 2014	Mr Picken wrote to the Ministers requiring a review of their failure to respond.
	Mr Picken did not receive a response to his requirement for review.
17 May 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.
19 May 2014	The Ministers were notified in writing that an application had been received from Picken and were invited to comment on the application.
4 June 2014	The Commissioner received submissions from the Ministers. These submissions are considered below.

## Commissioner's analysis and findings

1. The Ministers informed the Commissioner that they had carried out a review and emailed the outcome to Mr Picken on 3 June 2014. A copy of this response was provided to the Commissioner.
2. The Ministers explained to the Commissioner and to Mr Picken that his request had not been allocated correctly on receipt, and acknowledged that it had taken them longer that it should have done to respond. The Ministers apologised for the delay in responding to Mr Picken's request and requirement for review.
3. 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.
4. It is a matter of fact that the Ministers did not provide a response to Mr Picken's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.

5. 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.
6. It is a matter of fact that the Ministers did not provide a response to Mr Picken's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. Given that the Ministers responded to Picken's requirement for review on 3 June 2014, the Commissioner does not require them to take any further action in relation to Mr Hutcheon'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 Picken. In particular, they failed to respond to Mr Picken'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 have now responded to Mr Hutcheon's request and requirement for review, the Commissioner does not require the Ministers to take any action in respect of these failures, in response to Mr Picken's application.

## **Appeal**

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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. Any such appeal must be made within 42 days after the date of intimation of this decision.

**Euan McCulloch**  
**Deputy Head of Enforcement**  
**11 June 2014**

**Scottish Information Commissioner**

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