

Decision Notice

Decision 126/2014 Mr David J Ostler and the Chief Constable of the Police Service of Scotland

Cadet pension schemes: failure to respond within statutory timescales

Reference No: 201401036

Decision Date: 12 June 2014



Scottish Information
Commissioner

Summary

On 28 January 2014, Mr Ostler asked the Chief Constable of the Police Service of Scotland (Police Scotland) for information about cadet pension schemes. This decision finds that Police Scotland failed to comply with Mr Ostler's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

| Date | Action |
|-----------------|--|
| 28 January 2014 | Mr Ostler made an information request to Police Scotland. |
| 3 February 2014 | Police Scotland responded to the information request. They informed Mr Ostler that his request had been passed on to the Scottish Public Pensions Agency (SPPA). |
| 29 March 2014 | Mr Ostler wrote to Police Scotland requiring a review of their decision. Mr Ostler expressed dissatisfaction that his request had been forwarded to the SPPA and requested that Police Scotland conduct a review of his request. |
| | Mr Ostler did not receive a response to his requirement for review. |
| 13 May 2014 | Mr Ostler wrote to the Commissioner's Office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. |
| 27 May 2014 | Police Scotland were notified in writing that an application had been received from Mr Ostler and were invited to comment on the application. |
| 11 June 2014 | The Commissioner received submissions from Police Scotland. These are considered below. |

Commissioner's analysis and findings

1. 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. This is subject to qualifications which are not relevant in this case.
2. Police Scotland explained that Mr Ostler's request was passed to the SPPA as they believed the SPPA to be the appropriate authority to respond to the request. However, they acknowledged that they should have given Mr Ostler a formal response under FOISA.
3. Police Scotland explained that they had failed to respond to Mr Ostler's requirement for review due to a clerical error.
4. During the investigation, Police Scotland issued a detailed review response to Mr Ostler.
5. It is a matter of fact that Police Scotland did not provide a response to Mr Ostler'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 Police Scotland responded to Mr Ostler's requirement for review on 11 June 2014, the Commissioner does not require them to take any further action in relation to Mr Ostler's application.

Decision

The Commissioner finds that the Chief Constable of the Police Service of Scotland (Police Scotland) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Ostler. In particular, Police Scotland failed to respond to Mr Ostler's requirement for review within the timescale laid down by section 21(1) of FOISA.

Given that Police Scotland have now responded to Mr Ostler's requirement for review, the Commissioner does not require them to take any action in respect of this failure, in response to Mr Ostler's application.

Appeal

Should either Mr Ostler or the Chief Constable of Police Scotland 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
12 June 2014

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