

Decision Notice

Decision 072/2015: Mr Alistair Sloan and Chief Constable of the Police Service of Scotland

Police Service of Scotland's use of Stop and Search:

Failure to respond within statutory timescales

Reference No: 201500690

Decision Date: 01 June 2015



Scottish Information
Commissioner

Summary

On 13 February 2015, Mr Sloan asked the Chief Constable of the Police Service of Scotland (Police Scotland) for information about correspondence relating to Police Scotland's use of Stop and Search. This decision finds that Police Scotland failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Police Scotland failed to comply with Mr Sloan's requirement for review within the timescale set down by FOISA.

Background

Date	Action
13 February 2015	Mr Sloan made an information request to Police Scotland.
	Police Scotland did not respond to the information request.
14 March 2015	Mr Sloan wrote to Police Scotland requiring a review of its failure to respond.
	Mr Sloan did not receive a response to his requirement for review.
14 April 2015	Mr Sloan wrote to the Commissioner's Office, stating that he was dissatisfied with Police Scotland's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
30 April 2015	Police Scotland was notified in writing that an application had been received from Mr Sloan and was invited to comment on the application.
29 May 2015	The Commissioner received submissions from Police Scotland. These submissions are considered below.

Commissioner's analysis and findings

1. Police Scotland informed the Commissioner that a review response with accompanying documents was hand-delivered to Mr Sloan on 29 May 2015. A copy of the response was provided to the Commissioner.
2. Police Scotland apologised to Mr Sloan for the delay in responding.
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 Police Scotland did not provide a response to Mr Sloan'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 Police Scotland did not provide a response to Mr Sloan's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. Police Scotland responded to Mr Sloan's requirement for review on 29 May 2015, so the Commissioner does not require them to take any further action in relation to Mr Sloan'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 Sloan. In particular, Police Scotland failed to respond to Mr Sloan's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require Police Scotland to take any action in respect of these failures, in response to Mr Sloan's application, given that a review response has now been issued.

Appeal

Should either Mr Sloan or the Chief Constable of the Police Service of 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.

Alison Davies
Deputy Head of Enforcement

01 June 2015

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