

Decision Notice 011/2021

Police investigation reports – failure to respond

Applicant: The Applicant

Public authority: Chief Constable of the Police Service of Scotland

Case Ref: 202001289



Scottish Information
Commissioner

Summary

On 1 June 2020 the Applicant asked the Chief Constable of the Police Service of Scotland (Police Scotland) for information about various police investigation reports. This decision finds that Police Scotland failed to respond to the request and requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to Police Scotland on 1 June 2020
2. Police Scotland did not respond to the information request.
3. On 17 August 2020, the Applicant wrote to Police Scotland, requiring a review of their failure to respond.
4. Following correspondence between Police Scotland and the Applicant regarding the proper route for submitting a requirement for review, the Applicant submitted a further requirement for review on 22 September 2020.
5. The Applicant did not receive a response to their requirements for review.
6. The Applicant wrote to the Commissioner on 26 October 2021, stating that they were dissatisfied with Police Scotland's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
7. On 3 December 2020, Police Scotland were notified in writing that an application had been received from the Applicant and were invited to comment on the application.
8. The Commissioner received submissions from Police Scotland on 17 December 2020. These submissions are considered below.

Commissioner's analysis and findings

9. Police Scotland accepted that they had failed to respond to the information request and requirement for review within the timescales allowed in FOISA.
10. Police Scotland confirmed that Senior Management within Information Management would be addressing this specific information request with the departments/division involved, to ensure that this did not happen again and that future requests were processed in line with the correct procedures.
11. Following notification from the Commissioner's office concerning the failure to respond, a response was issued on 9 December 2020.
12. 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.
13. It is a matter of fact that Police Scotland did not provide a response to the Applicants' request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.

14. 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.
15. It is a matter of fact that Police Scotland did not provide a response to the Applicants' requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
16. As Police Scotland responded to the Applicants' requirement for review on 9 December 2020, the Commissioner does not require them to take any further action in relation to the Applicants' application.
17. The Commissioner notes that the review response contains an apology to the Applicant for the failure to comply.

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 2020 (FOISA) in dealing with the information request made by the Applicant. In particular, Police Scotland failed to respond to the Applicants' 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 the Applicants' application, given that a response has now been issued.

Appeal

Should either the Applicant 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.

Euan McCulloch
Deputy Head of Enforcement

21 January 2021

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