

# Decision Notice



Decision 067/2014 Shetland Line (1984) Limited and Transport Scotland

Meeting of Northern Isles ferry services contract: failure to respond within statutory timescales

Reference No: 201400323  
Decision Date: 20 March 2014

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**Rosemary Agnew**  
Scottish Information Commissioner

Kinburn Castle  
Doubledykes Road  
St Andrews KY16 9DS  
Tel: 01334 464610



## Summary

On 17 October 2013, Maclay Murray & Spens LLP on behalf of Shetland Line (1984) Limited asked Transport Scotland for information about whether Ministers had attended any meetings regarding the Northern Isles ferry services tender, and other information about any such meetings. This decision finds that Transport Scotland failed to respond to the request within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that Transport Scotland failed to comply with Shetland Line (1984) Limited's requirement for review within the timescales set down by FOISA.

## Background

Date	Action
17 October 2013	Shetland Line (1984) Limited made an information request to Transport Scotland.
	Transport Scotland did not respond to the information request.
19 December 2013	Shetland Line (1984) Limited wrote to Transport Scotland in respect of their failure to respond.
22 January 2014	Although Shetland Line (1984) Limited received an acknowledgement, they did not receive a response to their requirement for review.
11 February 2014	Shetland Line (1984) Limited wrote to the Commissioner's Office, stating that they were dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
26 February 2014	Transport Scotland was notified in writing that an application had been received from Shetland Line (1984) Limited and were invited to comment on the application.
12 March 2014	Transport Scotland provided the Commissioner with a copy of a letter they had sent to Shetland Line (1984) Limited on 12 March 2014.



## Commissioner's analysis and findings

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1. On 12 March 2014, Transport Scotland informed the Commissioner that Shetland Line (1984) Limited's review had now been carried out, and their response sent to Maclay Murray and Spens LLP on 12 March 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 Transport Scotland did not provide a response to Shetland Line (1984) Limited'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 Transport Scotland did not provide a response to Shetland Line (1984) Limited's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
6. Transport Scotland responded to Shetland Line (1984) Limited's requirement for review on 12 March 2014, so the Commissioner does not require them to take any further action in relation to Shetland Line (1984) Limited's application.

## DECISION

The Commissioner finds that Transport Scotland failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Shetland Line (1984) Limited. In particular, they failed to respond to Shetland Line (1984) Limited'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 a response has now been provided to Shetland Line (1984) Limited, the Commissioner does not require Transport Scotland to take any action in response to these failures.



## Appeal

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Should either Shetland Line (1984) Limited or Transport 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.

**Lorraine Currie**  
**Deputy Head of Enforcement**  
**20 March 2014**