

# Decision Notice

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## Decision 099/2014 Mr X and the Scottish Prison Service

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**Costs for facilitating offender programmes: alleged failure to respond within statutory timescales**

Reference No: 201400325

Decision Date: 06 May 2014



Scottish Information  
Commissioner

## Summary

On 27 October 2013, Mr X asked the Scottish Prison Service (the SPS) for information about the costs for facilitating offender programmes. This decision finds that the SPS did not receive Mr X's requirement for review. Consequently, the SPS did not breach section 21(1) of the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
27 October 2013	Mr X made an information request to the SPS.
26 November 2013	The SPS responded to the information request.
29 November 2013	Mr X wrote to the SPS requiring a review of its decision.
	Mr X did not receive a response to his requirement for review.
6 February 2014	Mr X wrote to the Commissioner, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
9 April 2014	The SPS was notified in writing that an application had been received from Mr X, was provided with a copy of Mr X's requirement for review, and was invited to comment on the application.
24 April 2014	The Commissioner received submissions from the SPS. These submissions are considered below.

## Commissioner's analysis and findings

1. In its submissions to the Commissioner, the SPS stated that it had no record of receiving a requirement for review from Mr X.
2. The SPS explained that requests for information and requirements for review are logged on its FOI tracker which monitors all requests received by the SPS. The SPS stated that the absence of a record of receipt indicates that Mr X's requirement for review was not received.
3. The SPS stated that, in order to be helpful and in the spirit of FOISA, it would now carry out a review.
4. The investigating officer also contacted Mr X asking him to clarify how and when his requirement for review had been sent to the SPS. Additionally, he was asked if he had any proof of sending the requirement. Mr X did not respond to the investigating officer.
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. This is subject to qualifications which are not relevant in this case.
6. In this case, the Commissioner is satisfied that Mr X's requirement for review was not received by the SPS. Accordingly, she finds that the SPS did not fail to comply with section

21(1) of FOISA. The Commissioner welcomes the decision by the SPS that it will respond to Mr X now that it has received his request for review.

## **Decision**

The Commissioner accepts that the Scottish Prison Service (SPS) did not receive Mr X's requirement for review. Therefore, she finds that the SPS did not breach section 21(1) of the Freedom of Information (Scotland) Act 2002 in this case.

## **Appeal**

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Should either Mr X or the Scottish Prison Service wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

**Alison Davies**  
**Deputy Head of Enforcement**  
**06 May 2014**

**Scottish Information Commissioner**

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