

Decision Notice

Decision 120/2014 Lyndsay Buckland and the Scottish Ministers

Cost of Vale of Leven Inquiry: failure to respond within statutory timescales

Reference No: 201400967

Decision Date: 04 June 2014



Scottish Information
Commissioner

Summary

On 14 February 2014, Ms Buckland asked the Scottish Ministers (the Ministers) for information about the cost of the Vale of Leven Inquiry. This decision finds that the Ministers failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Ministers failed to comply with Ms Buckland's requirement for review within the timescale set down by FOISA.

Background

Date	Action
14 February 2014	Ms Buckland made an information request to the Ministers.
14 March 2014	Ms Buckland was sent an update, apologising that the request was taking longer than expected. The Ministers did not respond to the information request.
25 March 2014	Ms Buckland wrote to the Ministers requiring a review in respect of their failure to respond.
17 April 2014 and 2 May 2014	Although Ms Buckland received further communications about her request, she did not receive a response to the requirement for review.
6 May 2014	Ms Buckland wrote to the Commissioner's Office, stating that she was dissatisfied with those failures and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
14 May 2014	The Ministers were notified in writing that an application had been received from Ms Buckland and were invited to comment on the application.
30 May 2014	The Commissioner received submissions from the Ministers. These submissions are considered below.

Commissioner's analysis and findings

1. The Ministers informed the Commissioner that they had carried out a review and emailed the outcome to Ms Buckland on 29 May 2014. A copy of the response was provided to the Commissioner. Ms Buckland confirmed she had received it.
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 the Ministers did not provide a response to Ms Buckland'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 the Ministers did not provide a response to Ms Buckland'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 the Ministers responded to Ms Buckland's requirement for review on 29 May 2014, the Commissioner does not require them to take any further action in relation to Ms Buckland's application.

Decision

The Commissioner finds that the Scottish Ministers (the Ministers) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms Buckland. In particular, they failed to respond to Ms Buckland'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 the Ministers have now responded to Ms Buckland's requirement for review, the Commissioner does not require the Ministers to take any action in respect of these failures, in response to Ms Buckland's application.

Appeal

Should either Ms Buckland or the Scottish Ministers 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
04 June 2014

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