

Decision Notice

Decision 045/2016: Mr M and the Scottish Courts and Tribunals Service

Moorov Doctrine: failure to respond within statutory timescales

Reference No: 201502253

Decision Date: 29 February 2016



Scottish Information
Commissioner

Summary

On 19 July 2015, Mr M asked the Scottish Courts and Tribunals Service (SCTS) for information about the Moorov Doctrine. This decision finds that SCTS failed to comply with Mr M's requirement for review within the timescale set down by FOISA.

Background

Date	Action
19 July 2015	Mr M made an information request to SCTS.
26 August 2015	SCTS responded to the information request.
22 September 2015	Mr M wrote to SCTS, requiring a review of its decision.
2 October 2015	Mr M received a response from SCTS. This restated what the SCTS understood to be the matters Mr M wished reviewed under FOISA, but it did not provide a response to his requirement for review.
24 November 2015	Mr M wrote to the Commissioner's Office, stating that he was dissatisfied with SCTS's failure to provide the information requested and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
18 December 2015	SCTS was notified in writing that an application had been received from Mr M.
27 January 2016	SCTS was invited to comment on Mr M's application.
11 February 2016	The Commissioner received submissions from SCTS. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that SCTS did not provide a response to Mr M's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. SCTS responded to Mr M's requirement for review on 11 February 2016, so the Commissioner does not require it to take any further action in relation to Mr M's application. The Commissioner was provided with a copy of the response.
4. SCTS acknowledged that it had not responded to Mr M's requirement for review in time. It conceded the response provided on 2 October 2015 did not constitute a review response, but rather was primarily a response to other correspondence. SCTS explained the steps it had since taken to improve practice in this area, in particular improved learning materials for staff.

5. The Commissioner notes that SCTS has apologised to Mr M for its failure to provide a review response within the statutory timescale for responding. She welcomes the steps taken by SCTS with regard to improving practice.

Decision

The Commissioner finds that the Scottish Courts and Tribunals Service (SCTS) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr M. In particular, SCTS failed to respond to Mr M's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner does not require SCTS to take any action in respect of this failure, in response to Mr M's application, given that it has now issued a review outcome.

Appeal

Should either Mr M or the Scottish Courts and Tribunals Service 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

29 February 2016

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info