

Decision Notice

Decision 060/2019: Dr G and the Chief Constable of the Police Service of Scotland

Guidance and training for community police officers: failure to respond within statutory timescales

Reference No: 201900338

Decision Date: 10 April 2019



Scottish Information
Commissioner

Summary

On 10 December 2018, Dr G asked the Chief Constable of the Police Service of Scotland (Police Scotland) for information about guidance and training provided to community police officers. The decision finds that Police Scotland failed to comply with Dr G's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

The Commissioner has ordered Police Scotland to comply with the requirement for review.

Background

Date	Action
10 December 2018	Dr G made an information request to Police Scotland.
9 January 2019	Police Scotland responded to the information request.
24 January 2019	Dr G wrote to Police Scotland requiring a review of their decision.
	Dr G did not receive a response to his requirement for review.
25 February 2019]	Dr G wrote to the Commissioner's Office, stating that he was dissatisfied with Police Scotland's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
15 March 2019	Police Scotland were notified in writing that an application had been received from Dr G and were invited to comment on the application.
	Police Scotland did not provide the Commissioner with any submissions.

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 Police Scotland did not provide a response to Dr G's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
3. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that Police Scotland failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
4. The Commissioner recommends that the Police Scotland consider whether it would be appropriate to apologise to Dr G for their failure to comply.

Decision

The Commissioner finds that Chief Constable of the Police Service of Scotland (Police Scotland) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Dr G. In particular, Police Scotland failed to respond to Dr G's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires Police Scotland to carry out a review, and provide Dr G with the outcome, by **28 May 2019**.

Appeal

Should either Dr G or Police 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.

Enforcement

If Police Scotland fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that Police Scotland has failed to comply. The Court has the right to inquire into the matter and may deal with Police Scotland as if it had committed a contempt of court.

Euan McCulloch
Deputy Head of Enforcement

10 April 2019

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