

Decision Notice 141/2019

Ambulance Response Time: failure to respond

Applicant(s): Mr A

Public authority: Scottish Ambulance Service Board

Case Ref: 201901350



Scottish Information
Commissioner

Summary

On 8 June 2019, the Applicant asked the Scottish Ambulance Service Board (SASB) for information about the time taken to dispatch an ambulance. This decision finds that the SASB 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 SASB failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

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

Background

Date	Action
8 June 2019	The Applicant made an information request to the SASB.
	The SASB did not respond to the information request.
13 July 2019	The Applicant wrote to the SASB, requiring a review in respect of its failure to respond.
	The Applicant did not receive a response to his requirement for review.
12 August 2019	The Applicant wrote to the Commissioner's Office, stating that he was dissatisfied with the SASB's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
4 September 2019	The SASB was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
24 September 2019	The Commissioner received submissions from the SASB. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that the SASB did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

3. 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.
4. It is a matter of fact that the SASB did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. In its submissions the SASB explained that the letter of 8 June 2019 was not considered to be an information request and was instead processed through its complaints process. The SASB also explained that at no point was the Applicant's letter of 13 July 2019 considered a request for review. Having considered both communications, the Commissioner can find no justification for this approach.
6. The remainder of section 21 set 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 the SASB failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
7. The Commissioner recommends that the SASB considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

Decision

The Commissioner finds that the Scottish Ambulance Service Board (SASB) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant. In particular, the SASB failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner requires the SASB to carry out a review and communicate the outcome to the Applicant, as required by section 21 of FOIA, by 14 November 2019.

Appeal

Should either the Applicant or the Scottish Ambulance Service Board 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 the Scottish Ambulance Service Board (SASB) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the SASB has failed to comply. The Court has the right to inquire into the matter and may deal with the SASB as if it had committed a contempt of court.

Euan McCulloch
Deputy Head of Enforcement

30 September 2019

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