

Decision Notice

Decision 039/2018: Mr Roy and the Scottish Ministers

Attendance at, and purchase of, specified dinners: failure to respond within statutory timescales

Reference No: 201800129

Decision Date: 19 March 2018



Scottish Information
Commissioner

Summary

The Scottish Ministers (the Ministers) were asked for information about attendance at specified dinners, including who purchased these dinners. 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 the requirement for review within the timescale set down by FOISA.

Background

Date	Action
1 November 2017	Mr Roy made an information request to the Ministers.
	The Ministers did not respond to the information request.
13 December 2017	Mr Roy wrote to the Ministers, requiring a review of their failure to respond.
	Mr Roy did not receive a response to his requirement for review.
18 January 2018	Mr Roy wrote to the Commissioner's Office, stating that he was dissatisfied with the Minister's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
26 February 2018	The Ministers were notified in writing that an application had been received from Mr Roy and were invited to comment on the application.
14 March 2018	The Commissioner received submissions from the Ministers. These submissions are considered below.

Commissioner's analysis and findings

1. The Ministers explained that this request came in at the same time as other requests from Mr Roy and from other researchers. The Ministers noted that these requests were very similar and acknowledged that Mr Roy's request was overlooked. They accepted that this was not appropriate and that more care was needed when registering requests arriving at the same time.
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 Mr Roy's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.
4. It is not clear from the Ministers submissions whether a similar registration issue occurred at the time Mr Roy's requirement for review was received.

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. Again, this is subject to qualifications which are not relevant in this case.
6. It is a matter of fact that the Ministers did not provide a response to Mr Roy's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
7. The Ministers responded to Mr Roy's requirement for review on 13 March 2018. The Commissioner does not require them to take any further action in relation to Mr Roy's application. He notes that they have apologised to Mr Roy for their errors.

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 Mr Roy. In particular, they failed to respond to Mr Roy's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require the Ministers to take any action in respect of these failures, in response to Mr Roy's application, given that they responded to Mr Roy's requirement for review on 13 March 2018.

Appeal

Should either Mr Roy 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

19 March 2018

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