

Decision Notice

Decision 079/2015: Mr David Henderson and the Scottish Ministers

IT contracts for Agriculture, Food & Rural Communities (AFRC) project:

Failure to respond within statutory timescales

Reference No: 201500924

Decision Date: 17 June 2015



Scottish Information
Commissioner

Summary

On 27 February 2015, Mr Henderson asked the Scottish Ministers (the Ministers) for information about staff who worked on IT contracts for the Scottish Government's AFRC Project. 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 Mr Henderson's requirement for review within the timescale set down by FOISA.

Background

Date	Action
27 February 2015	Mr Henderson made an information request to the Ministers.
3 March 2015	Although the Ministers acknowledged the request, they did not respond to the information request.
10 April 2015	Mr Henderson wrote to the Ministers, requiring a review in respect of their failure to respond.
13 April 2015	Again, although Mr Henderson received an acknowledgement he did not receive a response to his requirement for review.
15 May 2015	Mr Henderson wrote to the Commissioner's Office, stating that he was dissatisfied with the Minister's failures to respond and applied to the Commissioner for a decision in terms of section 47(1) of FOISA.
1 June 2015	The Ministers were notified in writing that an application had been received from Mr Henderson and were invited to comment on the application.
10 June 2015	The Commissioner received submissions from the Ministers. These submissions are considered below.

Commissioner's analysis and findings

1. The Ministers apologised for the delay in responding and confirmed to the Commissioner (with evidence) that a response was sent to Mr Henderson on 9 June 2015.
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 Henderson'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 Mr Henderson'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 Mr Henderson's requirement for review on 9 June 2015, the Commissioner does not require them to take any further action in relation to Mr Henderson's application.

Decision

The Commissioner finds that the Scottish 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 Henderson. In particular, they failed to respond to Mr Henderson'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 Henderson's application, given that a response has now been issued.

Appeal

Should either Mr Henderson 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

17 June 2015

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info