

# Decision Notice

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**Decision 035/2017: Mr L and the Chief Constable of the Police Service of Scotland**

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**Numbers of offences committed by specified football fans: failure to respond within statutory timescales**

Reference No: 201700299

Decision Date: 14 March 2017



Scottish Information  
Commissioner

## Summary

On 2 November 2016, the Chief Constable of the Police Service of Scotland (Police Scotland) was asked for information relating to offences recorded under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. In particular, whether any fans of specified clubs had been charged and convicted. This decision finds that Police Scotland failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
2 November 2016	Mr L made an information request to Police Scotland.
6 December 2016	Police Scotland responded to the information request.
15 January 2017	Mr L wrote to Police Scotland requiring a review of their decision.
	Mr L did not receive a response to his requirement for review.
12 February 2017	Mr L 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.
1 March 2017	Police Scotland were notified in writing that an application had been received from Mr L and were invited to comment on the application.
9 March 2017	The Commissioner received submissions from Police Scotland. These submissions are considered below.

## Commissioner's analysis and findings

1. Police Scotland confirmed that they had received Mr L's requirement for review, but due to an administrative oversight it had not been responded to.
2. Police Scotland accepted that they had failed to respond as required by FOISA and confirmed that a response was issued to Mr L on 9 March 2017. A copy was provided to the Commissioner.
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 Police Scotland did not provide a response to Mr L's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
5. As Police Scotland responded to Mr L's requirement for review on 9 March 2017, the Commissioner does not require them to take any further action in relation to Mr L's application.

6. The Commissioner notes that Police Scotland have apologised to Mr L for their failure to comply.

## **Decision**

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The Commissioner finds that the 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 Mr L. In particular, Police Scotland failed to respond to Mr L's requirement for review within the timescale laid down by sections 21(1) of FOISA.

The Commissioner does not require Police Scotland to take any action in respect of this failure, in response to Mr L's application, given that a response has now been issued.

## **Appeal**

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Should either Mr L or Chief Constable of the Police Service of Scotland (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.

**Euan McCulloch**  
**Deputy Head of Enforcement**

**14 March 2017**

**Scottish Information Commissioner**

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