

Decision Notice

Decision 121/2014

Mr John W H McLean and the Scottish Parliamentary Corporate Body

Details of an allegation: failure to respond within statutory timescales

Reference No: 201400576

Decision Date: 10 June 2014



Scottish Information
Commissioner

Summary

On 6 January 2014, Mr McLean asked the Scottish Parliamentary Corporate Body (the SPCB) for information about action taken by the SPCB in relation to correspondence with a member of staff. This decision finds that the SPCB failed to respond to Mr Mclean's requirement for review within the timescale set down by FOISA.

Background

Date	Action
6 January 2014	Mr McLean made an information request to the SPCB.
3 February 2014	The SPCB responded to the information request.
4 February 2014	Mr McLean wrote to the SPCB requiring a review of its decision.
24 and 26 February 2014	Although Mr McLean received acknowledgements, he did not receive a response to his requirement for review.
15 March 2014	Mr McLean wrote to the Commissioner's Office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8 May 2014	The SPCB was notified in writing that an application had been received from Mr McLean and was invited to comment on the application.
21 May 2014	The Commissioner received submissions from the SPCB. These submissions are considered below.

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 the SPCB did not provide a response to Mr McLean's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. The SPCB explained, with background information, that Mr McLean's letter had not been recognised as a requirement for review and therefore had not been responded to as such.
4. Given that the SPCB responded to Mr McLean's requirement for review on 21 March 2014, thereby acknowledging that was a requirement for review, the Commissioner does not require it to take any further action in relation to Mr McLean's application.

Decision

The Commissioner finds that the Scottish Parliamentary Corporate Body (the SPCB) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr McLean. In particular, the SPCB failed to respond to Mr McLean's requirement for review within the timescale laid down by section 21(1) of FOISA.

Given that the SPCB responded to Mr McLean's requirement for review on 21 March 2014, the Commissioner does not require the SPCB to take any action in respect of this failure, in response to Mr McLean's application.

Appeal

Should either Mr McLean or the Scottish Parliamentary Corporate Body 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
10 June 2014

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