



Decision Notice 147/2024

Declarations in registers of interests – failure to respond

Applicant: The Applicant

Authority: Chief Constable of the Police Service of Scotland

Case Ref: 202400675

Summary

The Applicant asked the Authority for information about declarations, made by senior police officers, contained in the registers of interests. This decision finds that the Authority failed to respond to the Applicant's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 11 December 2023.
2. The Authority responded to the information request on 21 December 2023.
3. Later that same day (i.e. on 21 December 2023), the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to his requirement for review.
5. On 26 April 2024, the Applicant wrote to the Commissioner, stating that he was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 15 May 2024.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority acknowledged that it failed to respond to the Applicant's requirement for review within FOISA timescales. It explained that the delay was attributable to handling an increased number of information requests.
10. 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.
11. It is a matter of fact that the Authority 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.
12. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
13. As the Authority responded to the Applicant's requirement for review on 6 May 2024, the Commissioner does not require it to take any further action in relation to the Applicant's application.
14. The Commissioner notes that the Authority's review response of 6 May 2024 contains an apology to the Applicant for the Authority's failure to handle the requirement for review in accordance with FOISA.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's requirement for review within the timescale laid down by section 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, the Commissioner does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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.

Colin MacFadyen
Freedom of Information Officer

9 July 2024