



Scottish Information
Commissioner
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Decision Notice 151/2025

Review relating to complaint about safety concerns – failure to respond

Applicant: The Applicant
Authority: Scottish Prison Service
Case Ref: 202500863

Summary

The Applicant asked the Authority for information about a review relating to a complaint raising concerns, including safety concerns about practices and procedures at HMP Greenock. This decision finds that the Authority failed to respond to the Applicant's request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 19 March 2025.
2. The Authority did not respond to the information request.
3. On 22 April 2025, the Applicant wrote to the Authority in respect of its failure to respond.
4. The Applicant did not receive a response to her requirement for review.
5. On 29 May 2025, the Applicant wrote to the Commissioner, stating that she 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 30 May 2025.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority accepted that it failed to respond to the Applicant's information request and requirement for review within the timescales allowed by FOISA.
10. The Authority explained that, upon receipt, the complexity of the request was not fully identified and that, once identified, the search for information took longer than anticipated due to staff resourcing issues.
11. The Authority confirmed that it was in the process of finalising a response to the request and aimed to do this as soon as possible.
12. At the date of this Decision Notice, the Authority's response had still not been issued.
13. 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.
14. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
15. 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.
16. 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.
17. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that the Authority failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
18. The Commissioner recommends that the Authority considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

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 request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA. The Commissioner requires the Authority to issue a response by **1 August 2025**.

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.

Enforcement

If the Authority fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Authority has failed to comply. The Court has the right to inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

Wendy Snedden
Freedom of Information Officer

17 June 2025