



Scottish Information
Commissioner
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Decision Notice 076/2024

Access to Work function – failure to respond

Applicant: The Applicant

Authority: Chief Constable of the Police Service of Scotland

Case Ref: 202400376

Summary

The Applicant asked the Authority for correspondence and documents from the Equality and Diversity Manager regarding resourcing of the Access to Work function. This decision finds that the Authority failed to comply with 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 1 December 2023 (which she clarified on 5 December 2023).
2. The Authority responded to the information request on 11 January 2024
3. On 11 January 2024, the Applicant wrote to the Authority requiring a review of its decision.
4. The Applicant did not receive a response to her requirement for review.
5. The Applicant wrote to the Commissioner on 10 March 2024, 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 14 March 2024.
8. The Commissioner received submissions from the Authority on 1 May 2024. These submissions are considered below.
9. The Authority accepted that it had failed to respond to the requirement for review within the timescale allowed by FOISA.
10. The Authority explained that the delay in responding was due to the volume of information requests received during that time, compounded by staff absence.
11. The Authority further explained that, in 2023, there had been a 19% increase in freedom of information requests compared to the year before, and that it had been a challenge to keep up with the volume with the same level of resource.
12. 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.
13. 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.
14. The Authority responded to the Applicant's requirement for review on 11 April 2024, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
15. The Commissioner notes that the Authority apologised 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 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, he 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.

Wendy Snedden
Freedom of Information Officer

02 May 2024