



Scottish Information
Commissioner

**Decision 028/2008 Pattison & Sim, Solicitors and the Scottish
Ministers**

**Failure to respond to a request for information and a
subsequent request for review**

**Applicant: Pattison & Sim, Solicitors
Authority: The Scottish Ministers
Case No: 200701844
Decision Date: 19 February 2008**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS



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Failure to respond to request for information and request for a review within the statutory timescales set out in the Freedom of Information (Scotland) Act 2002 (FOISA).

Facts

1. On 30 August 2007, Pattison & Sim Solicitors (Pattison & Sim) made an information request on behalf of a client to the Scottish Ministers (the Ministers).
2. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days from receipt of the request to comply with a request for information.
3. Pattison & Sim did not receive a response to this request and on 8 November 2007 wrote again to the Ministers requesting a review of their failure to respond to their initial request.
4. Section 21(1) of FOISA gives authorities a maximum of 20 working days from receipt of the requirement to comply with a requirement for review.
5. The Ministers also failed to respond to Pattison & Sim's request for review and on 20 December 2007 Pattison & Sim submitted an application to the Commissioner for a decision in this matter, again on behalf of their client.
6. The case was validated by establishing the Pattison & Sim, acting on behalf of their client, had made a valid information request to a Scottish public authority and had applied to the Scottish Information Commissioner (the Commissioner) only after asking the authority to review its failure to respond to their request. The case was then allocated to an investigating officer.
7. On 30 January 2008, the investigating officer notified the Ministers, in terms of section 49(3)(a) of FOISA, of the application made by Pattison & Sim, and asked for their comments on the application.
8. The Ministers responded on 14 February 2008. In this response, the Ministers accepted that its procedures for dealing with the requests for information had fallen down, due to a change over in staffing arrangements in the department concerned.



9. The Ministers have confirmed that the delay in responding to Pattison & Sim was caused by an unusual combination of circumstances and that in the normal course of events their systems should ensure that requests for information are dealt with within the required timescales.
10. The Ministers wrote to Pattison & Sim on 28 January 2008 in response to their request for information, including an apology for the delay.

Decision

The Commissioner finds that the Ministers failed to respond to Pattison & Sim's request for information within 20 working days allowed by section 10(1) of FOISA.

The Commissioner also finds that the Ministers failed to respond to Pattison & Sim's request for review within 20 working days allowed under section 21(1) of FOISA.

In failing to comply with these timescales the Ministers failed to comply with Part 1 of FOISA.

The Commissioner notes that the Ministers have now written to Pattison & Sim in response to their request for information, and have apologised for the delay. The Commissioner has also noted the reasons outlined by the Ministers for the delay and as such does not require the Ministers to take any further steps in this matter.

Appeal

Should either Pattison & Sim or the Ministers wish to appeal against this decision, there is a right of appeal to the Court of Session on a point of law only. An appeal must be made within 42 days after the date of intimation of this notice.

Claire Sigsworth
Deputy Head of Investigations
19 February 2008