

Decision Notice

Decision 056/2015: Jackie Baillie MSP and the Chief Constable of the Police Service of Scotland

Merger of L and K Division: failure to respond within statutory timescales

Reference No: 201500431

Decision Date: 20 April 2015



Scottish Information
Commissioner

Summary

On 11 December 2014, Jackie Baillie MSP asked the Chief Constable of the Police Service of Scotland (Police Scotland) for information about communications regarding a proposed merger of L and K Divisions of Police Scotland. This decision finds that Police Scotland failed to failed to comply with Ms Baillie's request and requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
11 December 2014	Ms Baillie made an information request to Police Scotland.
14 January 2015	Although Ms Baillie received an acknowledgement, she did not receive a response to her request.
28 January 2015	Police Scotland responded to the information request.
29 January 2015	Ms Baillie wrote to Police Scotland requiring a review of their decision.
27 February 2015	Again, although Ms Baillie received an acknowledgement, she did not receive a response to her requirement for review.
3 March 2015	Ms Baillie wrote to the Commissioner's Office, stating that she was dissatisfied with Police Scotland's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
30 March 2015	Police Scotland was notified in writing that an application had been received from Ms Baillie and was invited to comment on the application.
15 April 2015	The Commissioner received submissions from Police Scotland. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that Police Scotland did not provide a response to Ms Baillie's request for information within 20 working days, so the Commissioner finds that they failed to comply with section 10(1) of FOISA.
3. 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.

4. It is a matter of fact that Police Scotland did not provide a response to Ms Baillie's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.
5. Police Scotland responded to Ms Baillie's requirement for review on 13 April 2015, so the Commissioner does not require them to take any further action in relation to Ms Baillie's application.

Decision

The Commissioner finds that the Police Service of Scotland (Police Scotland) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Ms Baillie. In particular, Police Scotland failed to respond to Ms Baillie's request for information and her requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require the Police Scotland to take any action in respect of this failure, in response to Ms Baillie's application, given that a review response has now been issued.

Appeal

Should either Ms Baillie or the Chief Constable of the Police Service of Scotland 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.

Alison Davies

Deputy Head of Enforcement

20 April 2015

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info