

# Decision Notice

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**Decision 068/2018: Mr Gordon Blackstock and Scottish Police Authority**

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**Relocation packages: failure to respond within statutory timescales**

Reference No: 201800499

Decision Date: 17 May 2018



Scottish Information  
Commissioner

## Summary

On 22 December 2017, Mr Blackstock asked the Scottish Police Authority (the SPA) for information relating to Senior Police Officer relocation packages. This decision finds that the SPA failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the SPA failed to comply with Mr Blackstock's requirement for review within the timescale set down by FOISA.

## Background

Date	Action
22 December 2017	Mr Blackstock made an information request to the SPA.
1 February 2018	Although Mr Blackstock received an update, apologising to him for the delay in providing a response to his request, the SPA did not respond to the information request.
8 and 13 February 2018	Mr Blackstock wrote to the SPA, requiring a review in respect of its failure to respond.
	Mr Blackstock did not receive a response to his requirement for review.
16 March 2018	Mr Blackstock wrote to the Commissioner's Office, stating that he was dissatisfied with the SPA's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6 April 2018	The SPA was notified in writing that an application had been received from Mr Blackstock and was invited to comment on the application.
20 April 2018	The Commissioner received submissions from the SPA. These submissions are considered below.

## Commissioner's analysis and findings

1. The SPA acknowledged that it had not responded to Mr Blackstock within the timescales allowed and apologised to the Commissioner for its failure to do so.
2. 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.
3. It is a matter of fact that the SPA did not provide a response to Mr Blackstock's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
4. 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.

5. It is a matter of fact that the SPA did not provide a response to Mr Blackstock's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
6. The SPA identified staffing issues as a cause of its failure to respond on time. The Commissioner would remind public authorities that they are responsible for maintaining adequate cover to respond to information requests and requirements for review at all times, including during planned and unplanned absences (see section 1.4 of the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004<sup>1</sup>).
7. As the SPA responded to Mr Blackstock's requirement for review on 20 April 2018, the Commissioner does not require it to take any further action in relation to Mr Blackstock's application. The Commissioner was provided with a copy of the review response.
8. The Commissioner notes that the SPA has apologised to Mr Blackstock for its failure to respond timeously.

## Decision

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

The Commissioner does not require the SPA to take any action in respect of these failures, in response to Mr Blackstock's application, given that a response has now been issued.

## Appeal

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Should either Mr Blackstock or the Scottish Police 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.

**Euan McCulloch**  
**Deputy Head of Enforcement**

**17 May 2018**

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<sup>1</sup> <https://beta.gov.scot/publications/foi-eir-section-60-code-of-practice/>

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