

Decision Notice

Decision 071/2015: Mr Andrew Picken and the Chief Constable of the Police Service of Scotland

Police Scotland submission to IOCCO Inquiry: failure to respond within statutory timescales

Reference No: 201500732

Decision Date: 01 June 2015



Summary

On 5 February 2015, Mr Andrew Picken asked the Chief Constable of the Police Service of Scotland (Police Scotland) for a copy of Police Scotland's response to the IOCCO inquiry into the use of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act (RIPA) to identify journalistic sources. This decision finds that Police Scotland failed to comply with Mr Picken's requirement for review within the timescale set down by FOISA.

Background

Date	Action
5 February 2015	Mr Picken made an information request to Police Scotland.
11 March 2015	Police Scotland responded to the information request.
11 March 2015	Mr Picken wrote to Police Scotland requiring a review of its decision.
	Mr Picken did not receive a response to his requirement for review.
21 April 2015	Mr Picken wrote to the Commissioner's Office, stating that he 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.
14 May 2015	Police Scotland was notified in writing that an application had been received from Mr Picken and was invited to comment on the application.
26 May 2015	The Commissioner received submissions from Police Scotland. These submissions are considered below.

Commissioner's analysis and findings

1. 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. This is subject to qualifications which are not relevant in this case.
2. Police Scotland explained to the Commissioner that Mr Picken's email requesting a review was received at a time when several similar requests were received, and was missed due to an administrative error.
3. It is a matter of fact that Police Scotland did not provide a response to Mr Picken's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
4. Police Scotland responded to Mr Picken's requirement for review on 19 May 2015, so the Commissioner does not require it to take any further action in relation to Mr Picken's application.

Decision

The Commissioner finds that 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 Mr Picken. In particular, Police Scotland failed to respond to Mr Picken's requirement for review within the timescales laid down by section 21(1) of FOISA.

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

Appeal

Should either Mr Picken 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

01 June 2015

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