

Decision Notice

Decision 124/2015: Mr Paul Hutcheon and the Scottish Ministers

Details of hospitality events at Bute House: failure to respond within statutory timescales

Reference No: 201501187

Decision Date: 30 July 2015



Scottish Information
Commissioner

Summary

On 30 March 2015, Mr Hutcheon asked the Scottish Ministers (the Ministers) for the names of those receiving hospitality at Bute House since Nicola Sturgeon became First Minister, along with dates on which the hospitality was received and also dates of meetings with Rupert Murdoch for the same period. This decision finds that the Ministers 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 Ministers failed to comply with Mr Hutcheon's requirement for review within the timescale set down by FOISA.

Background

Date	Action
30 March 2015	Mr Hutcheon made an information request to the Ministers.
	The Ministers did not respond to the information request.
4 May 2015	Mr Hutcheon wrote to the Ministers, requiring a review in respect of their failure to respond.
	Mr Hutcheon did not receive a response to his requirement for review.
22 June 2015	Mr Hutcheon wrote to the Commissioner's Office, stating that he was dissatisfied with the Ministers' failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
13 July 2015	The Ministers were notified in writing that an application had been received from Mr Hutcheon and were invited to comment on the application.
27 July 2015	The Commissioner received submissions from the Ministers. 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 the Ministers did not provide a response to Mr Hutcheon'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 the Ministers did not provide a response to Mr Hutcheon's requirement for review within 20 working days, so the Commissioner finds that they failed to comply with section 21(1) of FOISA.

5. The Ministers responded to Mr Hutcheon's requirement for review on 27 July 2015 so the Commissioner does not require them to take any further action in relation to Mr Hutcheon's application.
6. The Commissioner notes that the Ministers apologised to Mr Hutcheon for the length of time taken to respond.

Decision

The Commissioner finds that the Scottish Ministers (the Ministers) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Hutcheon. In particular, the Ministers failed to respond to Mr Hutcheon'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 Ministers to take any action in respect of these failures, in response to Mr Hutcheon's application, given that a review outcome has now been issued.

Appeal

Should either Mr Hutcheon or the Scottish Ministers 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

30 July 2015

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