

Crown Office and Procurator Fiscal Service

Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA
Policy Division



Ms Catriona Dalrymple, Head of Policy

David Scott [request-134404-
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Tel: 0131 226 2626
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Fax:

Your ref:
Our ref: R003935

Date: 20 November 2012

Dear Mr Scott

Thank you for your email of 20 October 2012. Your email has been recorded as a request under the Freedom of Information (Scotland) Act 2002 and it has been passed to me to reply.

Information is provided wherever possible. However, in this instance an exemption under Section 25 of FOISA applies to the information requested, namely that you can reasonably obtain the information to answer your questions other than by requesting it under Section 1(1) of the Act.

To assist you in obtaining the answers to your questions I can advise that the Crown Office and Procurator Fiscal Service (COPFS) publishes statistics on cases receiving a "no action" marking i.e. cases which following consideration of the report received, the prosecutor deems no action to be appropriate in the public interest. The most recent publication covers 2007/2008 – 2011/2012. You can access these statistics from the COPFS website, the following link will take you directly to the figures: <http://www.copfs.gov.uk/About/corporate-info/NoProLast5>

As you will see the figures are broken down into the recorded reason for no action being taken by the prosecutor. One such reason is that the case was 'timebarred on receipt'. It may be helpful if I explain that this means that the report contains an allegation that a statutory offence has been committed i.e. a provision of an Act of Parliament has been contravened. Some Acts of Parliament contain a provision which specifies the time period within which criminal proceedings for offences under the Act must be commenced. For all other Acts i.e. those which are silent on the matter, the Criminal Procedure (Scotland) Act 1995 specifies the time frames within which proceedings must be commenced.

There are also cases in which an initial decision to take action requires to be reviewed at a later stage in light of subsequent information received. The result of such a review can in certain circumstances be that a case is

discontinued. Such cases would receive a marking of "no further action". These statistics are not published however following your request a review of recorded reasons for no further action markings has been conducted to ascertain the number of cases which were discontinued as a result of failure to meet legislative timescales and I can confirm that in 2010 and 2011 there were no such cases.

Finally, you ask how many complaints have been received about such delays. COPFS holds an electronic database, named Respond, in which all complaints received are recorded. Within Respond, complaints are categorised in accordance with their subject matter. Following your request a review of all complaints received since 2010 categorised under 'delay in course of proceedings' or 'delay in making a decision' - these being the only two categories specifically relating to delay - as well as the generic catch-all category of 'other' was carried out and I can confirm that there were no complaints specifically relating to cases being marked 'no action - timebarred on receipt'.

If you are dissatisfied with the way in which your request has been handled, you do have the right to ask us to review it. Your request should be made within 40 working days of receipt of this letter and we will reply within 20 working days of receipt. If you require a review of our decision to be carried out, please write to the Disclosure Section of the Criminal Justice and Disclosure Team, Policy Division, Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA

The review will be undertaken by staff not involved in the original decision making process. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner.

I hope this is of some assistance to you.

Yours sincerely

Lorraine Florence
Senior Procurator Fiscal Depute