



Scottish Information  
Commissioner

## **Decision 017/2005 Mr Euan Renton and Scottish Water**

*Request for copies of official documents relating to Scottish Water's policy on the fixing of water leaks onto roads and pavements and copies of guidance issued to staff who would specify repairs and timescales*

**Applicant: Mr Euan Renton**  
**Authority: Scottish Water**  
**Case No: 200501223**  
**Decision Date: 3 August 2005**

**Kevin Dunion**  
**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
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## **Decision 017/2005 – Mr Euan Renton and Scottish Water**

**Request for copies of official documents relating to Scottish Water’s policy on the fixing of water leaks onto roads and pavements and copies of guidance issued to staff who would specify repairs and timescales – failure of authority to respond within the timescales set out in the Freedom of Information (Scotland) Act 2002 – some of the information requested not held at the time the request was made**

### **Facts**

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Mr Renton requested information relating to Scottish Water’s policy on the fixing of water leaks and copies of guidance issued to staff in relation to these matters. Scottish Water failed to respond to Mr Renton’s request for review within the statutory timescale provided by the Freedom of Information (Scotland) Act 2002 (FOISA). Following Mr Renton’s application to the Commissioner, Scottish Water provided all of the information that it held which was relevant to Mr Renton’s request. A new policy is now in the process of being developed concerning the procedures to be followed in response to notifications of burst water pipes. This policy is being formulated by Scottish Water as a direct result of Mr Renton’s information request. Mr Renton then requested that the Commissioner continue his investigation into the way in which Scottish Water had dealt with his request for information.

### **Outcome**

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Scottish Water failed to comply with Part 1 of FOISA by not providing Mr Renton with the information he had requested within 20 working days after receiving his request. Scottish Water also failed to respond to Mr Renton’s request for review within the timescales set out in section 21(1) of FOISA and also failed to inform Mr Renton at the time that he made his request that some of the information he had requested was not held. All of the information held by Scottish Water that related to Mr Renton’s request was provided to him in the course of the investigation.

The Commissioner decided that no remedial steps require to be taken by Scottish Water.



## Appeal

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Should either Scottish Water or Mr Renton wish to appeal against this decision, there is a right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days of receipt of this notice.

## Background

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- 1 On 26 January 2005, Mr Renton sent an e-mail to Scottish Water's customer service department asking to be provided with the following:
  - Copies of any records which would help Scottish Water employees to make a decision as to the appropriate response to water leaks onto roads and pavements in the winter months;
  - Details of Scottish Water's policy relating to the urgency of repairs and the tolerance of water, from Scottish Water's mains, flowing on to roads and pavements in winter.
- 2 Scottish Water acknowledged Mr Renton's request for information in an e-mail of 10 February, 2005. A brief summary was provided of Scottish Water's "prioritisation matrix" as well as a brief description of the timescales involved in carrying out emergency, high and low priority work.
- 3 Mr Renton was unhappy with the response he received from Scottish Water and requested a review in an e-mail on 12 February 2005.
- 4 Scottish Water acknowledged receipt of Mr Renton's e-mail on 14 February 2005, stating it would reply to the points raised within 20 working days.
- 5 Mr Renton sent another e-mail to Scottish Water on 16 March 2005, 22 working days after Scottish Water's last acknowledgement, asking why no substantive response had been made to his freedom of information request.
- 6 Scottish Water responded to Mr Renton's e-mail on 21 March 2005, apologising for the delay and enclosing details of the appeal procedures. No information was provided to Mr Renton at that stage.
- 7 Mr Renton contacted my office by e-mail on 24 March 2004, requesting an investigation into the matter and the case was then allocated to an investigating officer.



## Investigation

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- 8 Mr Renton's appeal was validated by establishing that he had made a request to a Scottish public authority, and had appealed to me only after asking the authority to review its response to his request.
- 9 The investigating officer contacted Scottish Water on 15 April 2005 and spoke to a representative in Customer Relations. My officer was informed that Scottish Water's "external relations" team was handling Mr Renton's request and they were awaiting clearance to be able to release guidance notes for staff. The Customer Relations representative said that Scottish Water had every intention of providing Mr Renton with the information he had requested.
- 10 A letter was then sent to Scottish Water, giving notice that an appeal had been received and that an investigation into the matter had begun. Scottish Water was asked to comment on the issues raised by Mr Renton's case and to provide supporting documentation for the purposes of the investigation.
- 11 The letter stated that the information requested by Mr Renton was not provided to him within the 20 working day period required by FOISA nor provided to Mr Renton in the format he had requested (copies of actual documents as opposed to summaries of them).
- 12 Scottish Water was asked to state when it intended to provide the information to Mr Renton. On 5 May 2005 my officer spoke to a representative in Scottish Water's Customer Relations department and was informed that Scottish Water's legal department was in the process of finding out whether or not the information had been "signed off" and therefore available for release to Mr Renton.
- 13 Scottish Water's legal department was contacted on 9 May 2005. At this stage it became apparent that some of the information requested by Mr Renton was in the process of being created (i.e. it did not actually exist at the time he had made his request). A policy document was in the process of being produced for Mr Renton and the legal department undertook to inform my office when it had been provided to Mr Renton.
- 14 On 8 June 2005, Scottish Water stated that no definitive answer was available to the question of when Mr Renton would receive the information it had promised. Scottish Water did however manage to ascertain that service level targets set for certain categories of repair existed which could be supplied to Mr Renton. It was also stated that, partly as a result of Mr Renton's query, a policy document was being drafted which would take account of Mr Renton's concerns.



- 15 On 17 June 2005, Scottish Water stated in an e-mail to my office that a draft response had been produced for Mr Renton, but it was awaiting clarification on one point and approval from a senior manager before it could be sent out.
- 16 Mr Renton met with a Field Customer Adviser at Scottish Water's offices on 22 July 2005. He was shown a presentation given to Scottish Water staff who have to deal with burst repairs. Mr Renton was also given "several hundred pages of reports" concerning matters he had previously raised in relation to his information request.

### **The Commissioner's Analysis and Findings**

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- 17 Scottish Water provided only limited information in response to Mr Renton's original request for information of 26 January 2005. Brief details of Scottish Water's procedures were provided rather than copies of records that had been requested by Mr Renton. Where applicant requests information in a particular format an authority should endeavour to provide the information requested in that format where it is reasonably practicable to do so, as stated in section 11(1) of FOISA. Where copies of actual documents are requested, as in this case, it is unlikely that a summary statement will serve to satisfy the terms of the request.
- 18 In this case, Scottish Water should have informed Mr Renton at the time of his request which of the items he had requested could not be supplied on the grounds that it was not held by Scottish Water by issuing a notice that information is not held in terms of section 17 of FOISA. The rest of the information requested should have been provided to Mr Renton within 20 working days of Scottish Water having received his request as required by section 10(1) of FOISA. Instead, Mr Renton did not receive some of the information requested until 22 July 2005, when he attended a meeting with Scottish Water to discuss the issues raised by his request.
- 19 Mr Renton contacted my office on 25 July 2005 stating that he is now satisfied that all of his questions have been answered in relation to his request. He also stated that he wished the Commissioner to conclude the investigation and issue a decision on the matter.



## Decision

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I find that Scottish Water failed to comply with Mr Renton's request for information in accordance with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA). Scottish Water did not provide Mr Renton with the information he had requested within 20 working days after receiving his request as required by section 10(1) of FOISA and failed to respond to Mr Renton's request for review within the timescale set out in section 21(1) of FOISA. Scottish Water also failed to inform Mr Renton which items could be provided and which items were not held by Scottish Water at the time his request was received in terms of section 17(1) of FOISA.

However, I find that Scottish Water has now taken appropriate steps to provide Mr Renton with all of the relevant information that it holds in relation to his request. It is also in the process of developing a new policy concerning the procedures to be followed by Scottish Water in response to notifications of burst water pipes. This policy is being formulated as a direct result of Mr Renton's information request.

I do not therefore require Scottish Water to take any remedial steps to comply with these provisions in terms of section 49(6)(b) of FOISA.

**Kevin Dunion**  
**Scottish Information Commissioner**  
**August 2005**