



Scottish Information  
Commissioner

**Decision 046/2007: Rymonth Housing Society Ltd and Fife  
Council**

**Failure to respond to request for information**

**Applicant: Rymonth Housing Society Ltd  
Authority: Fife Council  
Case No: 200601813  
Decision Date: 12 March 2007**

**Kevin Dunion  
Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS



## Decision 046/2007 Rymonth Housing Society Ltd and Fife Council

### ***Failure to respond to a request for information and a request for a review within the statutory provisions set out in the Freedom of Information (Scotland) Act 2002***

#### **Facts**

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1. On 12 July 2006, Rymonth Housing Society Ltd. (the Society)) wrote to Fife Council (the Council) and requested the bed rate paid by the Council to other providers of a similar service to the Society.
2. Not having received a response, the Society wrote to the Council and asked it to carry out a review of the way it had dealt with its request on 3 October 2006.
3. On the same day the Council responded to the Society and refused to disclose the information. The Council noted that every organisation has a different bed rate due to the complexity of the clients they support and that it would therefore be inappropriate for rates to be discussed with other organisations.
4. The Society subsequently submitted a further request for review on 10 October 2006, this time based on the fact that the information had been refused. No response was received to this letter.
5. The Society applied to the Commissioner on 16 November 2006 for a decision as to whether the Council had responded to its request in line with the Freedom of Information (Scotland) Act 2002 (FOISA).
6. The Commissioner notified the Council of the application made by the Society and invited its comments on 5 December 2006. The Council responded to this letter on 18 December 2006, confirming that it had not recognised the request made by the Society as a request made under section 1(1) of FOISA.
7. Under section 49(1) of FOISA, except where an application is frivolous or vexatious, or where an application has been withdrawn or abandoned, the Commissioner must consider whether the request for information has been dealt with in accordance with the requirements of Part 1 of FOISA and must issue a Decision Notice to both the applicant and the public authority.



8. The Commissioner is satisfied that the Society made a request for information to Fife Council on 12 July 2006 which was valid under the terms of section 1(1) of FOISA, followed by a valid requirement for review (in terms of section 20 of FOISA) (on 3 October 2006 in relation to the failure to respond and on 10 October 2006 in relation to the refusal to supply the information).
9. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days from receipt of the request to comply with the request for information.
10. The Commissioner is satisfied that the Council did not respond to the Society's request for information as required by section 1(1) of FOISA within the timescale laid down in section 10(1) of FOISA.
11. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days to respond to a request for review. While the Council responded to the initial request for review on the same day, it failed to respond to the second request for review within the 20 working days allowed by FOISA.

## Decision

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The Commissioner finds that Fife Council (the Council) did not deal with the Society's request for information in accordance with the requirements of Part 1 of FOISA in that it failed to comply with section 1(1), section 10(1) and section 19(a) and (b).

The Commissioner requires the Council to carry out a review in line with the Society's request for review dated 10 October 2006. If the Council does not wish to release the information and does not intend to argue that the information is not held by it, the response to the Society must comply with section given that the initial response from the Council did not specify any of the matters contained in section 16(1) to (3) of FOISA.

The Council must do this within 45 days of receipt of this Decision Notice



## **Appeal**

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Should either party wish to appeal this decision, there is an 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.

**Margaret Keyse**  
**Head of Investigations**  
**12 March 2007**