

**Decision 124/2006 – Mr Edward Milne and Chief Constable of  
Tayside Police**

*Request for information about third party*

**Applicant: Mr Edward Milne  
Authority: The Chief Constable of Tayside Police  
Case No: 200600872  
Decision Date: 26 June 2006**

**Kevin Dunion  
Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

**Decision 124/2006 – Mr Edward Milne and the Chief Constable of Tayside Police**

***Failure of the Chief Constable of Tayside Police to respond to a request for information and to a request for a review within the statutory timescales set out in the Freedom of Information (Scotland) Act 2002.***

**Facts**

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1. On 11 January 2006, Mr Milne made an information request to the Chief Constable of Tayside Police (the Police) under section 1 of the Freedom of Information (Scotland) Act 2002 (FOISA). In his faxed letter, Mr Milne requested all information held in respect of a named individual.
2. Having not received a response to this letter within the statutory timescale, Mr Milne faxed a letter to the Police on 12 February 2006, requesting that the Police carry out a review of their failure to respond to his request for information.
3. Having not received a response to his request for review, Mr Milne applied on 3 May 2006 to the Scottish Information Commissioner, requesting that he investigate the Police's refusal to respond to his initial request and his request for review.
4. On 19 May 2006, the Commissioner notified the Police of the application made by Mr Milne and invited its comments. The Police responded to this letter on 6 June 2006, confirming that Mr Milne did not receive an answer to his initial request or his request for a review.
5. In their response to the Commissioner, the Police recognised that they did not deal with Mr Milne's request or request for a review as they should have done and they confirmed that they are now arranging for Mr Milne's request to be progressed as a matter of urgency.

## The Commissioner's Analysis and Findings

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6. Under section 49(1) of FOISA, except where an application is frivolous or vexatious or where an application has been withdrawn or abandoned, the Commissioner must consider whether the request for information has been dealt with in accordance with the requirements of Part 1 of FOISA and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.
7. The Commissioner is satisfied that Mr Milne made a request for information to the Police on 11 January 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 12 February 2006.
8. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days from the receipt of the request to comply with the request for information.
9. The Commissioner is satisfied that the Police did not respond to Mr Milne's request for information within the timescale laid down in section 10(1) of FOISA.
10. Section 21(1) of FOISA gives authorities a maximum of 20 working days from receipt of the requirement to comply with a requirement for review.
11. The Commissioner is satisfied that the Police did not respond to Mr Milne's requirement for review within the timescale laid down under section 21(1) of FOISA.

## Decision

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The Commissioner finds that the Chief Constable of Tayside Police (the Police) did not deal with Mr Milne's request for information in accordance with the requirements of Part 1 of FOISA in that the Police failed to comply with section 10(1) and section 21(1).

The Commissioner requires the Police to respond to Mr Milne's request for information, by either providing the information requested or giving notice in terms of section 16 (refusal of request) or section 17 (notice that information is not held) of FOISA (as appropriate), within 42 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**  
**26 June 2006**