



Scottish Information
Commissioner

**Decision 145/2006 Mr Rod Richardson and the Chief Constable
of Tayside Police**

Failure to reply to request or request for review

**Applicant: Mr Rod Richardson
Authority: The Chief Constable of Tayside Police
Case No: 200600918
Decision Date: 10 August 2006**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS



Decision 145/2006 – request for information relating to park offences and reports of untaxed vehicles in a given vicinity – no response to request for information – no response to request for review – breaches of section 10(1) and section 21(1) upheld

Facts

1. On 18 January 2006 Mr Richardson sent an email to the Chief Constable of Tayside Police (the Police) seeking access to information relating to untaxed vehicles and reports relating to parking offences in two specified roads.
2. Mr Richardson received no response to this request and on 21 February 2006 Mr Richardson emailed the Police again asking when he might receive a response. On 6 March 2006 Mr Richardson sent a further reminder asking that the Police consider his request for information.
3. Following a failure by the Police to respond to this subsequent correspondence Mr Richardson applied to the Commissioner for a decision on 15 May 2006. In his application, Mr Richardson indicated that by its failure to respond the Police had effectively prevented him from using the information requested for the purposes intended.
4. The application was validated by establishing that Mr Richardson had applied to the Commissioner only after requesting an internal review from the authority. In reaching this decision it was accepted that his letter of 6 March 2006 was a request for review.
5. The Commissioner gave the Police notice in writing of the application made by Mr Richardson on 30 May 2006 in terms of section 49(3)(a) of the Freedom of Information (Scotland) Act 2002 (FOISA) and invited its comments. The Police responded on 28 July 2006. The Police confirmed that Mr Richardson's original request had been received on 18 January 2006 and that a further item of correspondence, effectively a request for review of the Police's failure to respond, was received on 10 March 2006. The Police indicated that due to administrative errors associated in part with volume of work Mr Richardson's request was not properly processed resulting in him not receiving information to which he was entitled.



6. The Police indicated that, while it was no excuse, the volume of requests received during the first four months of 2006 was more than double the volume received in the same period during 2005. The Police advised that it had recognised that further resources were required to improve FOI processes and were currently recruiting a dedicated FOI officer. The Police indicated that it was in the process of implementing more robust administrative procedures which should ensure that such instances were eliminated in the future.
7. In a separate letter the Police supplied the information requested to Mr Richardson.

Decision

In failing to respond to the request from Mr Richardson and his subsequent request for review the Police did not deal with Mr Richardson's request for information and subsequent request for review in accordance with the following requirements of Part 1 of FOISA:

- Section 10(1), which states that a Scottish public authority must comply promptly with a request for information and in any event by not later than the twentieth working day after the receipt by the authority of the request and
- Section 21(1), which states that a Scottish public authority must comply promptly with a request for review and in any event by not later than the twentieth working day after the receipt by the authority of the request for review.

As the Police are taking steps to address its FOI administrative processes, including recruiting a dedicated member of staff, the Commissioner does not require the Police to take any steps to comply with Part 1 of FOISA under section 49(6)(b).

This is without prejudice to the right of Mr Richardson to apply to the Commissioner for a decision in relation to any dissatisfaction he may have with the information which has been provided to him by the Police.



Appeal

Should Mr Richardson or the Police wish to appeal against this decision, there is a right of 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
10 August 2006