



Scottish Information
Commissioner

**Decision 197/2006 Mr Tom Gordon and the
Scottish Executive**

*Failure of the Scottish Executive 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.*

**Applicant: Mr Tom Gordon
Authority: The Scottish Executive
Case No: 200601313
Decision Date: 30 October 2006**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
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Decision 197/2006 – Tom Gordon and the Scottish Executive

Request for copy of all information held by various Scottish Executive Departments relating to Donald J Trump, the Trump Organisation, its offshoots or agents – no response to request or request for review within the relevant timescales

Facts

Mr Gordon contacted the Scottish Executive (the Executive) to request copies of all material relating to Donald J Trump, the Trump Organisation, its offshoots or agents.

The Executive failed to respond to this request, or to Mr Gordon's subsequent request for review.

After an investigation the Commissioner found, in failing to respond to Mr Gordon's information request or request for review within the timescales set down by FOISA, the Executive had failed to comply with Part 1 of FOISA.

Background

1. On 27 April 2006, Mr Gordon applied to the Executive for a copy of all material held by the First Minister's Office and the Communities; Finance; Enterprise; and Tourism, Culture and Sport Departments relating to Donald J Trump, the Trump Organisation, its offshoots or agents.
2. On 21 June 2006, having received no response from the Executive, Mr Gordon complained to the Executive, urging the release of the information requested. This was a valid request for review in terms of section 20(3) of FOISA.
3. On 7 August 2006, having received no response to either his original request or his request for review, Mr Gordon applied to the Scottish Information Commissioner for a decision as to whether the Executive had dealt with his information request in accordance with FOISA.



4. The case was allocated to an investigating officer and Mr Gordon's application was validated by establishing that he had made a valid information request to a Scottish public authority and had appealed to the Commissioner only after asking the public authority to review its response to his request.

The Investigation

5. On 9 August 2006, the investigating officer contacted the Executive for its comments on the case in terms of section 49(3)(a) of FOISA, and, in particular, the reasons the Executive did not respond to Mr Gordon's request or the review within the period permitted by the legislation.
6. On 11 August 2006, the Executive responded. The Executive accepted that it had exceeded the 20 working days for responding to Mr Gordon's request, but that it had responded to Mr Gordon's request on 9 August 2006 and had included an apology for the delay in responding.
7. The Executive stated that the reason it had exceeded the 20 working days for the original request was the scope of the applicant's request. The Executive claimed that, as the request was wide ranging and covered material across various departments, putting together responses was a very intensive and time consuming process involving many officials.
8. The Executive stated that it had received 5 similar requests from journalists and that a similar request was also received by Scottish Enterprise, all of which further delayed the response.
9. The Executive stated that it was the Office of the First Minister which had coordinated the response to the requests and that this was one of the busiest offices.

The Commissioner's Analysis and Findings

10. Section 10(1) of FOISA requires Scottish public authorities to respond to the information requests they receive within 20 working days of receipt.
11. The Commissioner therefore finds that the Executive failed to comply with section 10(1) of FOISA in dealing with Mr Gordon's information request.



12. However, the Commissioner is satisfied that the Executive's response of 9 August 2006 constitutes a valid response and refusal notice under the terms of section 16(1) of FOISA.
13. Section 21(1) of FOISA requires authorities to respond to the requests for review they receive within 20 working days.
14. The Commissioner therefore finds that the Executive failed to comply with section 21(1) of FOISA in dealing with Mr Gordon's request for review.

Decision

The Commissioner finds that, in failing to comply with the timescales set down in sections 10(1) and 21(1), the Scottish Executive failed to deal with Mr Gordon's request for information in accordance with Part I of FOISA.

The Commissioner therefore requires the Executive to conduct a review in relation to its decision of 9 August 2006, provided Mr Gordon submits a new request for review within two calendar months of receipt of this decision notice. The review must be carried out within 40 working days of receipt of the request for review.

Appeal

Should either Mr Gordon or the Executive wish to appeal against 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
30 October 2006