

**Decision 165/2006 Mr Edward Milne and the Chief  
Constable of Tayside Police**

***Request for information regarding a complaint***

**Applicant: Edward Milne  
Authority: Chief Constable of Tayside Police  
Case No: 200600873  
Decision Date: 28 August 2006**

**Kevin Dunion  
Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS



## **Decision 165/2006 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**

---

1. On 3 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 the Police to provide him with all the files and information that the Police hold regarding a complaint that he had made to them in 2003.
2. Having received no response within the statutory timescale, Mr Milne faxed a letter to the Police on 9 February 2006 requesting the Police to review their decision not to provide him with a response to his request.
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 7 June 2006, the Commissioner notified the Police of the application made by Mr Milne and invited their comments. The Police responded to this letter on 10 July 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 had sent a letter out to him in response to his request in order to progress it. This was received by Mr Milne on 13 July 2006.



## The Commissioner's Analysis and Findings

---

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 Under section 49(1) of FOISA, except where an application is frivolous or vexatious or where an application has been withdrawn or abandoned, the Commissioner must consider whether the request for information has been dealt with in accordance with the requirements of Part 1 of FOISA and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 3 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 9 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

---

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 notes that Mr Milne received a response to his request on 13 July 2006, and therefore does not require the Police to take any remedial action in regard to this Decision Notice.



## **Appeal**

---

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**  
**28 August 2006**