



Scottish Information
Commissioner

**Decision 150/2006 – Mr Ian W Thomson and East
Dunbartonshire Council**

Funding of Kirkintilloch's Initiative

**Applicant: Mr Ian W Thomson
Authority: East Dunbartonshire Council
Case No: 200601228
Decision Date: 15 August 2006**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS



Decision 150/2006 – Mr Ian W Thomson and East Dunbartonshire Council

Failure of East Dunbartonshire Council to respond to a request for information and a request for a review within the statutory timescales set out in the Freedom of Information (Scotland) Act 2002

Facts

1. On 21 March 2006, Mr Thomson made an information request to East Dunbartonshire Council (the Council) under section 1 of the Freedom of Information (Scotland) Act 2002 (FOISA). In his letter, Mr Thomson requested information regarding financial support that had been provided to Kirkintilloch's Initiative.
2. Mr Thomson wrote a further letter to the Council on 24 April 2006 as he had not received a response to his letter of 21 March 2006 and was seeking a review of the Council's lack of response.
3. On 5 June 2006, Mr Thomson sent a further letter to the Council, stating that he had still not received a reply to his earlier letters.
4. The Council responded to Mr Thomson on 7 June 2006. In this letter the Council apologised for the delay in responding to Mr Thomson and advised him that it had passed his request for information on to the Director of Kirkintilloch's Initiative and had asked that he respond to Mr Thomson's request. In its response to Mr Thomson the Council made no reference to FOISA, and further did not cite any exemptions under FOISA for not providing Mr Thomson with the information he requested. Nor did the Council provide Mr Thomson with details about his right to request a review and to appeal to the Commissioner.
5. On 24 July 2006, Mr Thomson applied to the Scottish Information Commissioner, requesting that he investigate the Council's failure to respond to his request for information and request for review within the timescale laid down in FOISA.
6. The Commissioner notified the Council of the application made by Mr Thomson and invited its comments on 1 August 2006. The Council responded to this letter on 8 August 2006, confirming that it recognised that it had failed to respond to Mr Thomson's request for information within the timescale laid down in section 10(1) of FOISA.



7. In its responses to the Commissioner, the Council admitted that it had not recognised Mr Thomson's letter of 24 April 2006 as a request for a review, and as such had failed to respond within the 20 working days timescale laid down in section 21(1) of FOISA.
8. In responding to the Commissioner, the Council apologised for the failure to respond to Mr Thomson's request and indicated that it had been advised by Kirkintilloch's Initiative that arrangements would be put in place to allow Mr Thomson to have access to the relevant information, within the next week.

Commissioner's Analysis and Findings

9. 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.
10. The Commissioner is satisfied that Mr Thomson made a request for information to the Council on 21 March 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 24 April 2006.
11. 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.
12. The Commissioner is satisfied that the Council did not respond to Mr Thomson's request for information within the timescale laid down in section 10(1) of FOISA.
13. The Commissioner is satisfied that when the Council did eventually respond to Mr Thomson's information request it did not provide him with a refusal notice (as required under section 16 of FOISA), or a notice under section 17 (information not held). In the response that it did provide to Mr Thomson the Council did not advise Mr Thomson of his right to request a review and his right to appeal to the Commissioner, as is required by section 19(a) and (b) of FOISA.
14. 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.



15. The Commissioner is satisfied that the Council did not respond to Mr Thomson's requirement for review within the timescale laid down under section 21(1) of FOISA.

Decision

The Commissioner finds that East Dunbartonshire Council (the Council) did not deal with Mr Thomson's request for information in accordance with the requirements of Part 1 of FOISA in that they failed to comply with section 10(1), section 21(1) and section 19(a) and (b).

The Commissioner requires the Council to respond to Mr Thomson's request for information by either disclosing the information that he has requested, or by providing a notice under section 16 (refusal of request) or section 17 (notice that information is not held). The Commissioner requires the Council to do this within 44 days of receipt of 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
15 August 2006