



Scottish Information
Commissioner

**Decision 021/2007 Dr AJ and Mrs RL Wright and the Scottish
Executive**

Failure to respond to request for review

**Applicant: Dr AJ and Mrs RL Wright
Authority: Scottish Executive
Case No: 200601167
Decision Date: 1 February 2007**

**Kevin Dunion
Scottish Information Commissioner**

Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS



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Information request made to the Scottish Executive – applicants were dissatisfied with the response and submitted request for review – Scottish Executive failed to carry out a review within the timescales set down by FOISA

Facts

1. Dr and Mrs Wright made an information request to the Justice Department of the Scottish Executive (the Executive) on 1 November 2005.
2. Following a discussion with Dr and Mrs Wright, the Executive responded to that request on 3 February 2006, but refused to release the information asked for on the basis that it was exempt under sections 30(b)(i) and (ii) of the Freedom of Information (Scotland) Act 2002 (FOISA).
3. Dr and Mrs Wright were dissatisfied with the outcome of the review and, on 8 February 2006, asked the Executive to carry out a review.
4. On 3 July 2006, Dr and Mrs Wright made an application to me for a decision as the Executive had not carried out a review.
5. The case was subsequently allocated to an investigating officer. The application was validated by establishing that Dr and Mrs Wright had made a valid information request to a Scottish public authority and had appealed to me only after asking the authority to review its response to their request.
6. On 18 July 2006, the officer notified the Executive, in terms of section 49(3)(a) of FOISA, of the application made by Dr and Mrs Wright and asked for its comments on the application.
7. The Executive responded on 25 July 2006. The Executive acknowledged that it had failed to carry out a review in this instance and offered to apologise to Dr and Mrs Wright and to carry out a review.
8. A review was subsequently carried out by the Executive and the outcome of the review was notified to Dr and Mrs Wright on 9 November 2006.



Decision

I find that, in failing to respond to Dr and Mrs Wright's initial information request and their subsequent request for review within the 20 working days allowed by sections 10(1) and 21(1), respectively, of FOISA, the Scottish Executive failed to comply with Part 1 of FOISA.

However, I note that the Executive has subsequently apologised to Dr and Mrs Wright and that a review has subsequently been carried out. I therefore do not require the Executive to take any remedial steps in relation to these failures.

Appeal

Should either Dr and Mrs Wright or the Executive 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 decision notice.

Kevin Dunion
Scottish Information Commissioner
1 February 2007