

Decision Notice

Decision 040/2018: Dr Robbie Coull and the Scottish Ambulance Service Board

Statistical information: failure to respond within statutory timescales

Reference No: 201800139

Decision Date: 19 March 2018



Scottish Information
Commissioner

Summary

The SASB was asked for information about BASICS (British Association for Immediate Care) doctors responding to incidents at the request of the SASB. This decision finds that the SASB failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the SASB failed to comply with Dr Coull's requirement for review within the timescale set down by FOISA.

Background

Date	Action
13 September 2017	Dr Coull made an information request to the Scottish Ambulance Service Board (the SASB).
	The SASB did not respond to the information request.
27 November 2017	Dr Coull wrote to the SASB requiring a review in respect of its failure to respond.
	Dr Coull did not receive a response to his requirement for review.
22 January 2018	Dr Coull wrote to the Commissioner's Office, stating that he was dissatisfied with the SASB's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
23 February 2018	The SASB was notified in writing that an application had been received from Dr Coull and was invited to comment on the application.
9 March 2017	The Commissioner received submissions from the SASB. These submissions are considered below.

Commissioner's analysis and findings

1. When contacted by the Commissioner, the SASB acknowledged that it had not responded to Dr Coull's request.
2. Section 10(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the request to comply with a request for information. This is subject to qualifications which are not relevant in this case.
3. It is a matter of fact that the SASB did not provide a response to Dr Coull's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
4. Section 21(1) of FOISA gives Scottish public authorities a maximum of 20 working days following the date of receipt of the requirement to comply with a requirement for review. Again, this is subject to qualifications which are not relevant in this case.

5. The SASB explained that it had not been able to find any trace of Dr Coull's requirement for review, after carrying out extensive searches. It confirmed that it was engaging with the "Whatdotheyknow" (WDTK) website to identify any inherent problems with its systems and possible solutions, but could provide no explanation as to why it would not have been received.
6. The WDTK website indicates that the requirement for review was submitted to it by Dr Coull on 27 November 2017 and delivered to the SASB on the same day. On the balance of probabilities, having considered all relevant submissions, the Commissioner accepts that the requirement for review was received by the SASB on 27 November 2017, even if it was not identified and acted upon. In the circumstances, he finds that the SASB failed to respond to the requirement within the timescale required by section 21(1) of FOISA.
7. The SASB responded to Dr Coull's requirement for review on 9 March 2018, so the Commissioner does not require it to take any further action in relation to Dr Coull's application.
8. The Commissioner further notes that the SASB has apologised to Dr Coull for its failings and also its current engagement as described above.

Decision

The Commissioner finds that the Scottish Ambulance Service Board (the SASB) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Dr Coull. In particular, SASB failed to respond to Dr Coull's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner does not require the SASB to take any action in respect of these failures, in response to Dr Coull's application, given that the SASB has now responded to Dr Coull's requirement for review.

Appeal

Should either Dr Coull or the SASB wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement

19 March 2018

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