

# Decision Notice 150/2019

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## **Interventional Neuroradiology Service: failure to respond**

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**Applicant: The Applicant**

**Public authority: Greater Glasgow and Clyde Health Board**

**Case Ref: 201901657**



Scottish Information  
Commissioner



## Summary

On 25 February 2019, the Applicant asked Greater Glasgow and Clyde Health Board (NHS Greater Glasgow and Clyde) for all reports/reviews related to the Interventional Neuroradiology Service since the start of 2016. The decision finds that NHS Greater Glasgow and Clyde failed to comply with the Applicant's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002.

The Commissioner has ordered NHS Greater Glasgow and Clyde to comply with the requirement for review.

## Background

Date	Action
25 February 2019	The Applicant made an information request to NHS Greater Glasgow and Clyde.
9 May 2019	NHS Greater Glasgow and Clyde responded to the information request.
11 June 2019	The Applicant wrote to NHS Greater Glasgow and Clyde requiring a review of its decision.
	Although the Applicant received an acknowledgement, she did not receive a response to her requirement for review.
3 September 2019	The Applicant wrote to the Commissioner's Office, stating that she was dissatisfied with NHS Greater Glasgow and Clyde's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
24 September 2019	NHS Greater Glasgow and Clyde was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7 October 2019	The Commissioner received submissions from NHS Greater Glasgow and Clyde. These submissions are considered below.

## Commissioner's analysis and findings

1. 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. This is subject to qualifications which are not relevant in this case.
2. NHS Greater Glasgow and Clyde confirmed that it had received the Applicant's requirement for review and acknowledged that it had not been responded to.
3. It explained that a review investigation had commenced but had not progressed to a conclusion. It confirmed that it will ensure a review is now carried out and the outcome notified to the Applicant, with an apology for the significant delay in responding.

4. It is a matter of fact that NHS Greater Glasgow and Clyde did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review. As no review has been carried out in this case, the Commissioner finds that NHS Greater Glasgow and Clyde failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.

## Decision

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The Commissioner finds that Greater Glasgow and Clyde Health Board (NHS Greater Glasgow and Clyde) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by the Applicant. In particular, NHS Greater Glasgow and Clyde failed to respond to the Applicant's requirement for review within the timescales laid down by sections 21(1) of FOISA.

The Commissioner requires NHS Greater Glasgow and Clyde to provide a response to the Applicant's requirement for review, by **Monday 25 November 2019**.

## Appeal

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Should either the Applicant or NHS Greater Glasgow and Clyde 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.

## Enforcement

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If NHS Greater Glasgow and Clyde fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that NHS Greater Glasgow and Clyde has failed to comply. The Court has the right to inquire into the matter and may deal with NHS Greater Glasgow and Clyde as if it had committed a contempt of court.

**Claire Stephen**  
**Deputy Head of Enforcement**

**10 October 2019**



**Scottish Information Commissioner**

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