

Decision Notice 020/2020

Former GP Partnership: failure to respond

Applicant: The Applicant

Public authority: Greater Glasgow & Clyde Health Board

Case Ref: 202000009



Scottish Information
Commissioner

Summary

On 19 April 2019, the Applicant asked Greater Glasgow & Clyde Health Board (NHS Greater Glasgow & Clyde) for information about a former GP Partnership. This decision finds that NHS Greater Glasgow & 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 & Clyde to comply with the requirement for review.

Background

| Date | Action |
|-----------------|---|
| 19 April 2019 | The Applicant made an information request to NHS Greater Glasgow & Clyde. |
| 21 May 2019 | NHS Greater Glasgow & Clyde responded to the information request. |
| 13 July 2019 | The Applicant wrote to NHS Greater Glasgow & Clyde requiring a review of its decision. |
| | The Applicant did not receive a response to her requirement for review. |
| 6 January 2020 | The Applicant wrote to the Commissioner's Office, stating that she was dissatisfied with NHS Greater Glasgow & Clyde's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA. |
| 6 January 2020 | NHS Greater Glasgow & Clyde was notified in writing that an application had been received from the Applicant and was invited to comment on the application. |
| 23 January 2020 | The Commissioner received submissions from NHS Greater Glasgow & Clyde. These submissions are considered below. |

Commissioner's analysis and findings

1. NHS Greater Glasgow & Clyde accepted that it failed to respond to the Applicant's requirement for review and confirmed that it would provide the Applicant with an apology for the delay.
2. 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.

3. It is a matter of fact that NHS Greater Glasgow & 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.
4. 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 & Clyde failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.

Decision

The Commissioner finds that Greater Glasgow & Clyde Health Board (NHS Greater Glasgow & 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 & 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 & Clyde to issue a review, by **16 March 2020**.

Appeal

Should either the Applicant or NHS Greater Glasgow & 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

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

Claire Stephen
Deputy Head of Enforcement

29 January 2020

Scottish Information Commissioner

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