



Decision Notice 060/2024

Number of medical consultant posts – failure to respond

Applicant: The Applicant

Authority: NHS Greater Glasgow and Clyde

Case Ref: 202400320

Summary

The Applicant asked the Authority for various information about the number of existing, vacant or newly created medical consultant posts, including Speciality Doctors, Specialists and Associate Specialists posts (as at 30 September 2023). This decision finds that the Authority failed to respond to the request and requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 13 November 2023.
2. The Authority did not respond to the information request.
3. On 10 January 2024, the Applicant wrote to the Authority requiring a review in respect of its failure to respond and sent further emails on 24 January and 21 February 2024 chasing a response.
4. The Applicant did not receive a response to their requirement for review.
5. The Applicant wrote to the Commissioner on 28 February 2024, stating that they were dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 21 March 2024.
8. The Commissioner received submissions from the Authority on 26 March 2024. These submissions are considered below.
9. The Authority accepted that it had failed to respond to the request and requirement for review within the timescale allowed by FOISA.
10. The Authority explained that the delay in issuing a response to the Applicant was due to it working through a backlog of cases, including this one.
11. The Authority stated that as soon as the information was available it sent the information to the Applicant.
12. The Authority confirmed that it was currently working on streamlining its processes and that it has brought in a new freedom of information procedure that was being introduced to staff across the organisation. The Commissioner welcomes this action.
13. 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.
14. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
15. 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.
16. It is a matter of fact that the Authority 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.
17. The Authority responded to the Applicant's requirement for review on 12 March 2024, so the Commissioner does not require it to take any further action in relation to the Applicant's application.
18. The Commissioner notes that the Authority apologised to the Applicant for its failure to comply.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

Given that the Authority has now responded to the Applicant's requirement for review, the Commissioner does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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.

Cal Richardson
Deputy Head of Enforcement

22 April 2024