

Decision Notice

Decision 037/2019: Mr C and Greater Glasgow and Clyde Health Board

Moving Forward Together: failure to respond within statutory timescales

Reference No: 201900048

Decision Date: 8 March 2019



Scottish Information
Commissioner

Summary

Greater Glasgow and Clyde Health Board (NHS Greater Glasgow and Clyde) was asked for information about meetings and correspondence between Stuart McMillan MSP and health board officials relating to the “Moving Forward Together” programme.

This decision finds that NHS Greater Glasgow and Clyde failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that NHS Greater Glasgow and Clyde failed to comply with Mr C’s requirement for review within the timescale set down by FOISA.

Background

Date	Action
2 October 2018	Mr C made an information request to NHS Greater Glasgow and Clyde.
3 October 2018	Although NHS Greater Glasgow and Clyde acknowledged the information request, it did not respond to it.
19 November 2018	Mr C wrote to NHS Greater Glasgow and Clyde, requiring a review in respect of its failure to respond.
27 November 2018	Again, although Mr C received an acknowledgement, he did not receive a response to his requirement for review.
9 January 2019	Mr C wrote to the Commissioner’s Office, stating that he was were dissatisfied with NHS Greater Glasgow and Clyde’s failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
17 January 2019	NHS Greater Glasgow and Clyde was notified in writing that an application had been received from Mr C and was invited to comment on the application.
14 February 2019	The Commissioner received submissions from NHS Greater Glasgow and Clyde. These submissions are considered below.

Commissioner’s analysis and findings

1. 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.
2. It is a matter of fact that NHS Greater Glasgow and Clyde did not provide a response to Mr C’s request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.

3. 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.
4. It is a matter of fact that NHS Greater Glasgow and Clyde did not provide a response to Mr C'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 Commissioner was provided with a copy of the review response issued to Mr C on 22 January 2019. He notes NHS Greater Glasgow and Clyde's apology to Mr C for its failure to respond earlier.
6. As NHS Greater Glasgow and Clyde has now responded to Mr C's requirement for review, the Commissioner does not require it to take any further action in relation to Mr C's application.

Decision

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 Mr C. In particular, NHS Greater Glasgow and Clyde failed to respond to Mr C'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 NHS Greater Glasgow and Clyde to take any action in respect of these failures, in response to Mr C's application, given that that a response was issued on 22 January 2019.

Appeal

Should either Mr C 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.

Euan McCulloch
Deputy Head of Enforcement

8 March 2019

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