

# Decision Notice

---

**Decision 041/2019: Mrs D and Greater Glasgow & Clyde Health Board**

---

**Former GP partnership: failure to respond within statutory timescales**

Reference No: 201900270

Decision Date: 12 March 2019



Scottish Information  
Commissioner

## Summary

On 11 June 2018, Mrs D 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 Mrs D's requirement for review within the timescale allowed by the Freedom of Information (Scotland) 2002 (FOISA).

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

## Background

Date	Action
11 June 2018	Mrs D made an information request to NHS Greater Glasgow & Clyde.
5 September 2018	NHS Greater Glasgow & Clyde responded to the information request.
25 September 2018	Mrs D wrote to NHS Greater Glasgow & Clyde requiring a review of its decision.
	Mrs D did not receive a response to her requirement for review.
13 February 2019	Mrs D 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.
22 February 2019	NHS Greater Glasgow & Clyde was notified in writing that an application had been received from Mrs D and was invited to comment on the application.
8 March 2019	The Commissioner received submissions from NHS Greater Glasgow & 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. It is a matter of fact that NHS Greater Glasgow & Clyde did not provide a response to Mrs D's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

3. 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.
4. NHS Greater Glasgow & Clyde has explained to the Commissioner the reasons why it fell behind in responding to information requests, including Mrs D's request for review, and what action it has taken to remedy this situation.
5. The Commissioner notes that NHS Greater Glasgow and Clyde intends to provide Mrs D with a review and an apology for the delay. As this has not yet been provided, the Commissioner requires NHS Greater Glasgow and Clyde to issue a full response to Mrs D's request for review.

## 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 Mrs D. In particular, NHS Greater Glasgow & Clyde failed to respond to Mrs D's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires NHS Greater Glasgow & Clyde to issue a review, by **26 April 2019**.

## Appeal

---

Should either Mrs D 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.

**Alison Davies**  
**Deputy Head of Enforcement**

**12 March 2019**

**Scottish Information Commissioner**

Kinburn Castle  
Doubledykes Road  
St Andrews, Fife  
KY16 9DS

t 01334 464610

f 01334 464611

[enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

**[www.itspublicknowledge.info](http://www.itspublicknowledge.info)**