

Decision Notice



Decision 078/2014 Mr Colvin Hope and Dumfries & Galloway Health Board

Number of complaints against Urology Department: failure to respond within statutory timescales

Reference No: 201400507
Decision Date: 07 April 2014

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
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Summary

On 23 October 2013, Mr Hope asked Dumfries and Galloway Health Board (NHS Dumfries) for information about the number of complaints made against the Urology Department and the nature and outcome of these complaints. This decision finds that NHS Dumfries failed to respond to Mr Hope's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
23 October 2013	Mr Hope made an information request to NHS Dumfries.
21 January 2014	NHS Dumfries responded to the information request.
30 January 2014	Mr Hope wrote to NHS Dumfries requiring a review of its decision.
	Mr Hope did not receive a response to his requirement for review.
12 March 2014	Mr Hope wrote to the Commissioner's Office, stating that he was dissatisfied with NHS Dumfries's failure to respond to his requirement for review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
19 March 2014	NHS Dumfries was notified in writing that an application had been received from Mr Hope and was invited to comment on the application.
28 March 2014	The Commissioner received submissions from NHS Dumfries. These submissions are considered below.



Commissioner's analysis and findings

1. NHS Dumfries explained that the requirement for review had been missed due to an administrative oversight. It had highlighted the need to recognise information requests and the like in other correspondence.
2. NHS Dumfries informed the Commissioner that it had carried out a review and had posted the outcome to him on 27 March 2014. A copy of the response was provided to the Commissioner.
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. This is subject to qualifications which are not relevant in this case.
4. It is a matter of fact that NHS Dumfries did not provide a response to Mr Hope's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. NHS Dumfries responded to Mr Hope's requirement for review on 27 March 2014, so the Commissioner does not require it to take any further action in relation to Mr Hope's application.

DECISION

The Commissioner finds that Dumfries Health Board (NHS Dumfries) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr Hope. In particular, NHS Dumfries failed to respond to Mr Hope's requirement for review within the timescale laid down by section 21(1) of FOISA.

Given that a response was provided to Mr Hope's requirement for review, the Commissioner does not require NHS Dumfries to take any action in respect of this failure, in response to Mr Hope's application.



Appeal

Should either Mr Hope or Dumfries Health Board wish to appeal against this decision, they have the right to appeal to the Court of Session on a point of law only. The appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement
07 April 2014