

# Decision Notice

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**Decision 088/2019: Ms R and Greater Glasgow and Clyde Health Board**

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**Former Medical Practice: failure to respond within statutory timescales**

Reference No: 201900693

Decision Date: 30 May 2019



Scottish Information  
Commissioner

## Summary

Greater Glasgow and Clyde Health Board (NHS Greater Glasgow and Clyde) was asked for information about a former medical practice, with particular reference to patient representatives and petitions.

This decision finds that NHS Greater Glasgow and Clyde failed to respond to the request and requirement for review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

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

## Background

Date	Action
16 February 2019	Mrs R made an information request to NHS Greater Glasgow and Clyde.
21 February 2019	Although NHS Greater Glasgow and Clyde acknowledged the request, it did not respond to the information request.
24 March 2019	Mrs R wrote to NHS Greater Glasgow and Clyde, requiring a review in respect of its failure to respond.
	Mrs R did not receive a response to her requirement for review.
28 April 2019	Mrs R wrote to the Commissioner's Office, stating that she was 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.
10 May 2019	NHS Greater Glasgow and Clyde was notified in writing that an application had been received from Mrs R and was invited to comment on the application.
24 May 2019	The Commissioner received submissions from NHS Greater Glasgow and Clyde. These submissions are considered below.

## Commissioner's analysis and findings

1. NHS Greater Glasgow and Clyde accepted that it had not responded to Mrs R's request and requirement for review and had thus failed to comply with FOISA and referred to the number of information requests and requirements for review it had received from Mrs R over recent months. The Commissioner noted again that alternative strategies for addressing Mrs R's concerns had not been successful.

2. NHS Greater Glasgow and Clyde confirmed that a review was under way, but had not yet been completed. It explained that it was working a number of outstanding reviews for Mrs R, including some in compliance with the Commissioner's Decision Notices. It also referred to the challenges of dealing with the large number of requests and review requirements received from Mrs R.
3. 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.
4. It is a matter of fact that NHS Greater Glasgow and Clyde did not provide a response to Mrs R's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
5. 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.
6. It is a matter of fact that NHS Greater Glasgow and Clyde did not provide a response to Mrs R's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
7. 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 and Clyde failed to discharge these requirements: he now requires a review to be carried out, and the outcome communicated to Mrs R, in accordance with section 21.
8. The Commissioner notes that NHS Greater Glasgow and Clyde intends to apologise to Mrs R for its failure to comply. He would encourage it to do so.

## Decision

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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 Mrs R. In particular, NHS Greater Glasgow and Clyde failed to respond to Mrs R's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA.

The Commissioner requires NHS Greater Glasgow and Clyde to provide a response to Mrs R's requirement for review, by **Monday 15 July 2019**.

## Appeal

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Should either Mrs R 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.

## **Enforcement**

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

**Euan McCulloch**  
**Deputy Head of Enforcement**

**30 May 2019**

**Scottish Information Commissioner**

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