

Decision Notice

Decision 173/2016: Ms Claire Miller and Greater Glasgow and Clyde Health Board

Number of people missing outpatient appointments:

Failure to respond within statutory timescale

Reference No: 201601232

Decision Date: 09 August 2016



Scottish Information
Commissioner

Summary

On 13 April 2016, Ms Miller asked Greater Glasgow and Clyde Health Board (NHS Greater Glasgow and Clyde) for information about numbers of people that did not attend outpatient appointments. This decision finds that NHS Greater Glasgow and Clyde failed to comply with Ms Miller's requirement for review within the timescale set down by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
13 April 2016	Ms Miller made an information request to NHS Greater Glasgow and Clyde.
11 May 2016	NHS Greater Glasgow and Clyde responded to the information request.
23 May 2016	Ms Miller wrote to NHS Greater Glasgow and Clyde, requiring a review of its decision.
	Ms Miller did not receive a response to her requirement for review.
7 July 2016	Ms Miller wrote to the Commissioner's office, stating that she was dissatisfied with NHS Greater Glasgow and Clyde's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
20 July 2016	NHS Greater Glasgow and Clyde was notified in writing that an application had been received from Ms Miller and was invited to comment on the application.
4 August 2016	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 acknowledged that it had received the requirement for review, but had not recognised it as such at that time. A review had since been carried out and emailed to Ms Miller, a copy being provided to the Commissioner.
2. NHS Greater Glasgow and Clyde confirmed that it will be reminding staff involved with information requests of the relevant guidance in the Section 60 Code of Practice. The Commissioner welcomes this action.
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 Greater Glasgow and Clyde did not provide a response to Ms Miller's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. As NHS Greater Glasgow and Clyde responded to Ms Miller's requirement for review on 4 August 2016, the Commissioner does not require it to take any further action in relation to Ms Miller's application.
6. The Commissioner notes that NHS Greater Glasgow and Clyde has apologised to Ms Miller for its failure to comply.

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

The Commissioner does not require NHS Greater Glasgow and Clyde to take any action in respect of this failure, in response to Ms Miller's application, given that a response has been issued now.

Appeal

Should either Ms Miller or Greater Glasgow and Clyde 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. Any such appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement

09 August 2016

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