

# Decision Notice

---

**Decision 255/2016: Mr Fraser Sutherland and Tayside NHS Health Board**

---

**Parking Management: Failure to respond within statutory timescales**

Reference No: 201601997

Decision Date: 28 November 2016



Scottish Information  
Commissioner

## Summary

Tayside NHS Health Board (NHS Tayside) was asked for information about parking arrangements at sites controlled by NHS Tayside. This decision finds that NHS Tayside failed to respond to the request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

## Background

Date	Action
16 August 2016	Mr Sutherland made an information request to NHS Tayside.
9 September 2016	NHS Tayside responded to the information request.
9 September 2016	Mr Sutherland wrote to NHS Tayside requiring a review of its decision.
25 October 2016	Mr Sutherland sent a reminder to NHS Tayside that he had not received a response. NHS Tayside confirmed that a response would be sent to him by the end of the week.
2 November 2016	Mr Sutherland wrote to the Commissioner's Office, stating that he was dissatisfied with NHS Tayside's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
9 November 2016	NHS Tayside was notified in writing that an application had been received from Mr Sutherland and was invited to comment on the application.
22 November 2016	The Commissioner received submissions from NHS Tayside. 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 Tayside did not provide a response to Mr Sutherland's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. NHS Tayside acknowledged that it had not responded to Mr Sutherland's requirement for review in time. The delay was caused through seeking legal advice on whether some information could be disclosed to Mr Sutherland.
4. As NHS Tayside responded to Mr Sutherland's requirement for review on 22 November 2016, the Commissioner does not require it to take any further action in relation to Mr Sutherland's application.

5. The Commissioner recommends that the NHS Tayside considers whether it would be appropriate to apologise to Mr Sutherland for its failure to comply and its failure to explain to him why its review response was delayed.

## **Decision**

---

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

## **Appeal**

---

Should either Mr Sutherland or Tayside NHS Health Board (NHS Tayside) 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.

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

**28 November 2016**

**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)**