

Decision Notice

**Decision 184/2018: Mr W and NHS Greater Glasgow and Clyde
Funding for NRS Generic Support: failure to respond within statutory timescales**

Reference No: 201801608

Decision Date: 15 November 2018



Scottish Information
Commissioner

Summary

On 26 July 2018, Mr W asked NHS Greater Glasgow and Clyde (NHSGGC) for information about funding for NRS Generic Support. This decision finds that NHSGGC failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that NHSGGC failed to comply with Mr W's requirement for review within the timescale set down by FOISA.

The Commissioner has ordered NHSGGC to comply with the requirement for review.

Background

Date	Action
26 July 2018	Mr W made an information request to NHSGGC.
	NHSGGC did not respond to the information request.
30 August 2018	Mr W wrote to NHSGGC in respect of its failure to respond.
21 September 2018	Mr W received an apology from NHSGGC for its failure to provide the information requested within the statutory timescale. NHSGGC did not provide a review outcome.
25 September 2018	Mr W wrote to the Commissioner's Office, stating that he was dissatisfied with NHSGGC's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
17 October 2018	NHSGGC was notified in writing that an application had been received from Mr W and was invited to comment on the application.
6 November 2018	The Commissioner received submissions from NHSGGC. These submissions are considered below.

Commissioner's analysis and findings

1. 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.
2. It is a matter of fact that NHSGGC did not provide a response to Mr W's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
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. Again, this is subject to qualifications which are not relevant in this case.
4. It is a matter of fact that NHSGGC did not provide a response to Mr W's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.

5. 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 NHSGGC failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
6. NHSGGC has explained to the Commissioner the reasons why it fell behind in responding to information requests, and what action it has taken to remedy this situation. It intends to offer an unreserved apology to Mr W for its failure to comply with his request within the statutory timescales.

Decision

The Commissioner finds that NHS Greater Glasgow and Clyde (NHSGGC) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mr W. In particular, NHSGGC failed to respond to Mr W'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 NHSGGC to respond to Mr W's requirement for review by **Monday 31 December 2018**.

Appeal

Should either Mr W or NHSGGC 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 NHSGGC fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that NHSGGC has failed to comply. The Court has the right to inquire into the matter and may deal with NHSGGC as if it had committed a contempt of court.

Alison Davies
Deputy Head of Enforcement

15 November 2018

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