

Decision Notice 070/2022

Pay rises for employees administering life-saving care without patient consent – failure to respond

Applicant: The Applicant

Public authority: Greater Glasgow and Clyde Health Board

Case Ref: 202200441



Scottish Information
Commissioner

Summary

The Applicant asked Greater Glasgow and Clyde Health Board (NHSGGC) for information about recorded incidences of employees awarded a pay increase for resuscitating or supplying life-saving equipment to a patient, without the patient's consent, between 31 October 2018 and 31 October 2021.

This decision finds that NHSGGC failed to respond to the requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to NHSGGC on 31 October 2021.
2. NHSGGC responded to the information request on 10 November 2021.
3. On 3 December 2021, the Applicant wrote to NHSGGC requiring a review of its decision.
4. The Applicant did not receive a response to their requirement for review.
5. On 15 April 2022, the Applicant wrote to the Commissioner, stating that they were dissatisfied with NHSGGC's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. On 3 May 2022, NHSGGC was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
7. The Commissioner received submissions from NHSGGC on 17 May 2022.

Commissioner's analysis and findings

8. 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.
9. It is a matter of fact that NHSGGC did not provide a response to the Applicant's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
10. The remainder of section 21 sets out the requirements to be followed by a Scottish public authority in carrying out a review.
11. In its submissions to the Commissioner, NHSGGC confirmed that the review was not carried out within FOISA timescales.
12. It also confirmed that a review had been issued to the Applicant (that day) with an apology for the delay in responding.
13. Given that a review response has now been issued, the Commissioner does not require NHSGGC to take any further action in relation to the Applicant's application.

Decision

The Commissioner finds that Greater Glasgow and Clyde Health Board (NHSGGC) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA). In particular, NHSGGC failed to respond to the Applicant's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner does not require NHSGGC to take any action in respect of this failure in response to the Applicant's application, given that a response was issued on 17 May 2022.

Appeal

Should either the Applicant 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.

Margaret Keyse
Head of Enforcement

16 June 2022

Scottish Information Commissioner

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