



Decision Notice 120/2024

Medical inspections in schools – failure to respond

Applicant: The Applicant

Authority: Greater Glasgow and Clyde Health Board

Case Ref: 202400642

Summary

The Applicant asked the Authority for information about continuous records of medical inspections in schools. This decision finds that the Authority failed to respond to the Applicant's request and requirement for review request within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to the Authority on 19 February 2024.
2. The Authority did not respond to the information request.
3. On 31 March 2024, the Applicant wrote to the Authority in respect of its failure to respond.
4. The Applicant did not receive a response to her requirement for review.
5. On 7 May 2024, the Applicant wrote to the Commissioner, stating that she was dissatisfied with the Authority's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
6. The Commissioner determined that the application complied with section 47(2) of FOISA and that he had the power to carry out an investigation.

Investigation

7. Section 49(3)(a) of FOISA requires the Commissioner to notify public authorities of an application and to give them an opportunity to comment. The Commissioner did this on 8 May 2024.
8. The Commissioner received submissions from the Authority. These submissions are considered below.
9. The Authority accepted that it had failed to respond to the request and requirement for review within the timescales allowed by FOISA.
10. The Authority explained that the delay in issuing a response to the Applicant was due to an influx of complex information requests resulting in a case backlog.
11. The Authority confirmed that it had invested in training new staff and introduced new procedures and processes across its services network to comply with its legislative duties.
12. 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.
13. It is a matter of fact that the Authority did not provide a response to the Applicant's request for information within 20 working days, so the Commissioner finds that it failed to comply with section 10(1) of FOISA.
14. 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.
15. It is a matter of fact that the Authority 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.
16. The Authority responded to the Applicant's requirement for review on 6 June 2024, with an apology for the failure to respond within FOISA timescales, so the Commissioner does not require it to take any further action in relation to the Applicant's application.

Decision

The Commissioner finds that the Authority failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in dealing with the information request made by the Applicant. In particular, the Authority failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) and 21(1) of FOISA. Given that the Authority has now responded to the Applicant's requirement for review, he does not require the Authority to take any action.

Appeal

Should either the Applicant or the Authority 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.

**Colin MacFadyen
Freedom of Information Officer**

13 June 2024