

Decision Notice 182/2021

Covid 19 teams and home tests carried out in August 2020 – failure to respond

Applicant: The Applicant

Public authority: Fife Health Board

Case Ref: 202100667



Scottish Information
Commissioner

Summary

The Applicant asked Fife Health Board (NHS Fife) for information about the number of NHS Fife Covid 19 teams, their location and the number of home tests carried out in Fife during August 2020.

This decision finds that NHS Fife failed to respond to the request and the request for a review within the timescales allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

1. The Applicant made an information request to NHS Fife on 11 September 2020.
2. NHS Fife did not respond to the information request.
3. On 22 October 2020, the Applicant wrote to NHS Fife requiring a review of its failure to respond.
4. The Applicant received a response to his requirement for review on 23 November 2020.
5. On 24 January 2021, the Applicant asked NHS Fife to explain the delay in responding to his request.
6. On 25 January 2021, NHS Fife provided the Applicant with a response to his complaint regarding the delay in responding to his request
7. The Applicant wrote to the Commissioner, stating that he was dissatisfied with NHS Fife's failures to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. On 7 October 2021, NHS Fife was notified in writing that an application had been received from the Applicant and was invited to comment on the application.
9. The Commissioner received submissions from NHS Fife. These submissions are considered below.

Commissioner's analysis and findings

10. 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.
11. It is a matter of fact that NHS Fife 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.
12. 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.
13. It is a matter of fact that NHS Fife 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.

14. NHS Fife responded to the Applicant's requirement for review on 23 November 2020, so the Commissioner does not require it to take any further action in relation to the Applicant's application. NHS Fife apologised to the Applicant for this delay on 25 January 2021.
15. NHS Fife explained that a move to new software for processing information requests and the change to email addresses from .net to .scot caused some initial issues in the late part of 2020, but that it is working on improving its processes for dealing with information requests and that the failures to respond to the Applicant would be taken into consideration as part of the review.

Decision

The Commissioner finds that NHS Fife failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2020 (FOISA) in dealing with the information request made by the Applicant. In particular, NHS Fife failed to respond to the Applicant's request for information and requirement for review within the timescales laid down by sections 10(1) of 21(1) of FOISA.

The Commissioner does not require NHS Fife to take any action in respect of these failures in response to the Applicant's application, given that a review response was issued on 23 November 2020.

Appeal

Should either the Applicant or NHS Fife 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.

Claire Stephen
Deputy Head of Enforcement

15 November 2021

Scottish Information Commissioner

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