

Decision Notice

Decision 226/2014: Mr A and Lothian Health Board

Risk assessments for healthcare staff within a specified prison:

Failure to respond within statutory timescales

Reference No: 201402354

Decision Date: 24 October 2014



Summary

On 28 June 2014, Mr A asked Lothian Health Board (NHS Lothian) for information about risk assessments for healthcare staff within a specified prison. This decision finds that NHS Lothian failed to respond to Mr A's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
28 June 2014	Mr A made an information request to NHS Lothian.
4 August 2014	NHS Lothian responded to the information request.
16 August 2014	Mr A wrote to NHS Lothian requiring a review of its decision.
	Mr A did not receive a response to his requirement for review.
28 September 2014	Mr A wrote to the Commissioner's Office, stating that he was dissatisfied with NHS Lothian's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8 October 2014	NHS Lothian was notified in writing that an application had been received from Mr A and was invited to comment on the application.
15 October 2014	The Commissioner received submissions from NHS Lothian. 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 Lothian did not provide a response to Mr A's requirement for review within 20 working days, so the Commissioner finds that it to comply with section 21(1) of FOISA.
3. NHS Lothian responded to Mr A's requirement for review on 15 October 2014. The Commissioner was provided with a copy of the response. Therefore, Commissioner does not require NHS Lothian to take any further action in relation to Mr A's application.

Decision

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

The Commissioner does not require the Ministers to take any action in respect of this failure, in response to Mr A's application, given that a response was sent to him on 15 October 2014.

Appeal

Should either Mr A or Lothian Health Board 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.

Euan McCulloch
Deputy Head of Enforcement

24 October 2014

Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS

t 01334 464610

f 01334 464611

enquiries@itspublicknowledge.info

www.itspublicknowledge.info