

Decision Notice

Decision 102/2018: Carolyn Neilson and West Dunbartonshire Integration Joint Board

Report relating to Dumbarton Health Centre: failure to respond within statutory timescales

Reference No: 201800785

Decision Date: 9 July 2018



Scottish Information
Commissioner

Summary

West Dunbartonshire Integration Joint Board (the Board) was asked for the report submitted by the Clinical Director at the meeting of the West Dunbartonshire Health and Social Care Partnership Board on 23 August 2017, along with any information discussing or held in relation to the report. This decision finds that the Board failed to respond to the request for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

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

Background

Date	Action
22 February 2018	Mrs Neilson made an information request to the Board.
21 March 2018	The Board responded to the information request.
26 March 2018	Mrs Neilson wrote to the Board requiring a review of its decision.
28 March 2018	Although Mrs Neilson received an acknowledgement, she did not receive a response to her requirement for review.
8 May 2018	Mrs Neilson wrote to the Commissioner's Office, stating that she was dissatisfied with the Board's failure to respond and applying to the Commissioner for a decision in terms of section 47(1) of FOISA
7 June 2018	The Board was notified in writing that an application had been received from Mrs Neilson and was invited to comment on the application.
	The Board did not provide the Commissioner with any submissions.

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 the Board did not provide a response to Mrs Neilson's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
3. 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 the Board failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21.
4. The Commissioner recommends that the Board considers whether it would be appropriate to apologise to Mrs Neilson for its failure to comply.

Decision

The Commissioner finds that West Dunbartonshire Integration Joint Board (the Board) failed to comply with Part 1 of the Freedom of Information (Scotland) Act 2002 (FOISA) in responding to the information request made by Mrs Neilson. In particular, the Board failed to respond to Mrs Neilson's requirement for review within the timescale laid down by section 21(1) of FOISA.

The Commissioner requires the Board to provide Mrs Neilson with a response to her request for review, by **Thursday 23 August 2018**.

Appeal

Should either Mrs Neilson or West Dunbartonshire Integration Joint Board (the 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.

Enforcement

If West Dunbartonshire Integration Joint Board (the Board) fails to comply with this decision, the Commissioner has the right to certify to the Court of Session that the Board has failed to comply. The Court has the right to inquire into the matter and may deal with the Board as if it had committed a contempt of court.

Alison Davies
Deputy Head of Enforcement

9 July 2018

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