

Decision Notice



Decision 065/2014 Mr Sergio Sabato and Highland Health Board

Raigmore Hospital – staff accommodation: failure to respond within statutory timescales

Reference No: 201400354
Decision Date: 18 March 2014

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Rosemary Agnew
Scottish Information Commissioner

Kinburn Castle
Doubledykes Road
St Andrews KY16 9DS
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Summary

On 7 December 2013, Mr Sabato asked Highland Health Board (NHS Highland) for information about staff accommodation at Raigmore Hospital. This decision finds that NHS Highland failed to respond to Mr Sabato's requirement for review within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA).

Background

Date	Action
7 December 2013	Mr Sabato made an information request to NHS Highland.
13 January 2014	NHS Highland responded to the information request.
15 January 2014	Mr Sabato wrote to NHS Highland requiring a review of its decision
	Although Mr Sabato received an acknowledgement on 16 January 2014, he did not receive a response to his requirement for review.
18 February 2014	Mr Sabato wrote to the Commissioner's office, stating that he was dissatisfied with that failure and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
28 February 2014	NHS Highland was notified in writing that an application had been received from Mr Sabato and was invited to comment on the application.
12 March 2014	The Commissioner received submissions from NHS Highland. Its submissions are considered below.



Commissioner's analysis and findings

1. Mr Sabato notified the Commissioner that he had received a response to his requirement for review on 19 February 2014, but still required a decision from the Commissioner.
2. NHS Highland acknowledged that it had not responded to Mr Sabato's requirement for review within the relevant timescale in FOISA. It apologised for the late response.
3. 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.
4. It is a matter of fact that NHS Highland did not provide a response to Mr Sabato's requirement for review within 20 working days, so the Commissioner finds that it failed to comply with section 21(1) of FOISA.
5. Given that NHS Highland responded to Mr Sabato's requirement for review on 19 February 2014, the Commissioner does not require it to take any further action in relation to this breach, in response to Mr Sabato's application.

DECISION

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

Given that NHS Highland has since responded to Mr Sabato's requirement for review, the Commissioner does not require it to take any action in respect of this breach, in response to Mr Sabato's application.

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Mr Sergio Sabato
and Highland Health Board



Appeal

Should either Mr Sabato or Highland 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. The appeal must be made within 42 days after the date of intimation of this decision.

Euan McCulloch
Deputy Head of Enforcement
18 March 2014