Scottish Information Commissioner
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Decision Notice 276/2026

Cataract surgery provision – failure to respond

Authority: Greater Glasgow and Clyde Health Board
Case Ref: 202602082

Summary

The Applicant asked the Authority for various information relating to its use of independent providers and other NHS bodies to carry out NHS-funded cataract surgery. This decision finds that the Authority failed to respond to the request within the timescale allowed by the Freedom of Information (Scotland) Act 2002 (FOISA). The decision also finds that the Authority failed to comply with the Applicant's requirement for review within the timescale set down by FOISA.

Background

1. The Applicant made an information request to the Authority on 30 April 2026.
2. On the same day, the Authority acknowledged receipt of the Applicant's request. However, it did not respond to the information request.
3. On 16 June 2026, the Applicant wrote to the Authority requiring a review in respect of its failure to respond.
4. The Applicant did not receive a response to his requirement for review.
5. The Applicant wrote to the Authority again on 4 August 2026, 11 September 2026 and 1 October 2026 in respect of its failure to respond to his initial request and requirement for review. The Applicant did not receive a response to his correspondence.
6. On 19 October 2026, the Applicant wrote to the Commissioner, stating that he 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.
7. 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

8. 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 26 October 2026.

9. The Authority did not provide the Commissioner with any submissions.

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 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.

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 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.

14. The remainder of section 21 of FOISA 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 Authority failed to discharge these requirements: he now requires a review to be carried out in accordance with section 21 of FOISA.

15. As noted above, the Authority did not provide the Commissioner with any submissions. He therefore does not know why the Authority failed to respond to the Applicant's request and requirement for review within the timescales laid down by FOISA. However, these are statutory timescales and must be met. In this case, the Commissioner considers the Authority's failure to respond to any of the Applicant's correspondence (other than a brief acknowledgement of the initial request) over a five-month period to be particularly egregious.

16. The Commissioner would remind Scottish public authorities that the Scottish Ministers' Code of Practice on the discharge of functions by Scottish public authorities under FOISA and the Environmental Information (Scotland) Regulations 2004 (the Section 60 Code[1]) expects them to be adequately resourced to support and deliver their FOI duties (paragraph 1.1.4 in Part 2).

17. The Commissioner recommends that the Authority considers whether it would be appropriate to apologise to the Applicant for its failure to comply.

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

[1] https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2026/03/foi-eir-section-60-code-practice/documents/foi-eir-section-60-code-practice/foi-eir-section-60-code-practice/govscot%3Adocument/foi-eir-section-60-code-practice.pdf

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.

The Commissioner requires the Authority to carry out a review in terms of section 21 of FOISA, by **4 January 2027**.

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.

Enforcement

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

Cal Richardson
Deputy Head of Enforcement

16 November 2026