

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 August 2016

Public Authority: Health and Care Professions Council

Address: Park House
184 Kennington Park Road
London SE11 4BU

Decision (including any steps ordered)

1. The complainant has requested information relating to the Health and Care Professions Council's (HCPC) policies on employee standards.
2. The Commissioner's decision is that HCPC did not deal with the request for information in accordance with section 10 of the FOIA.
3. The Commissioner requires the HCPC to take the following steps to ensure compliance with the legislation.
 - Provide a response to the complainant
4. The Trust must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 16 March 2016 the complainant requested information in the following terms:

"Please provide us with all and any information held by the HCPC in terms of policy, guidance and enforcement of acceptable standards of conduct of employees, including any 'acceptable internet policy'"

6. The HCPC responded on 16 March 2016. It stated

"In terms of your request for information from the HCPC, all requests need to be made in writing and sent to the HCPC's Freedom of Information team. Their email address is foi@hcpc-uk.org."

7. On 30 March 2016 the complainant requested an internal review. The HCPC responded on 22 April 2016 reiterating its previous response and provided a postal address for FOI requests.

Scope of the case

8. The complainant contacted the Commissioner on 27 May 2016 to complain about the way his request for information had been handled.
9. The scope of the Commissioner's investigation is to determine if the HCPC has complied with the FOIA.

Reasons for decision

Section 10

10. Section 10 of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
11. The Commissioner has proceeded to a decision notice without further contact with HCPC as this is a procedural matter. In addition the Commissioner has enough evidence before her to be able to make a decision.
12. From the information provided the Commissioner in this case, it is evident that the HCPC did not respond to the request within the statutory time frame of 20 working days. The Council has therefore breached section 10 of the FOIA.

Section 8 - Request for information.

13. Section 8 of the FOIA states:

(1) In this Act any reference to a "request for information" is a reference to such a request which—

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested.

14. The Commissioner has referred to the following guidance available on the ICO website:

https://ico.org.uk/media/1643/foi_hints_for_practitioners_handing_foi_and_eir_requests_2008.pdf section 6

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

<https://ico.org.uk/media/1165/time-for-compliance-foia-guidance.pdf>

15. It is clear that the complainant has fulfilled the criteria in section 8(1) of the FOIA. The Commissioner notes that the HCPC response provided the complainant with contact details to re-submit the request directly to the FOI Team.
16. However, in line with her guidance the Commissioner considers that the request should have been forwarded by the team who received the request onto the FOI team to respond to within the statutory timescale rather than insist that the requestor does so.
17. Referring specifically to her guidance the Commissioner states:

“Authorities may wish to consider the following good practice advice to help them handle requests promptly and efficiently;

- *It may be helpful to provide and publicise a separate e-mail address for FOI requests, although there will still be a duty to deal with requests received anywhere within the authority. “*

18. In further guidance the Commissioner also states:

“For a request to be valid under the Freedom of Information Act it must be in writing, but requesters do not have to mention the Act or direct their request to a designated member of staff. It is good practice to provide the contact details of your freedom of information officer or team, if you have one, but you cannot ignore or refuse a request simply because it is addressed to a different member of staff. Any letter or email to a public authority asking for information is a request for recorded information under the Act.”

19. Based on the information provided by the complainant it is clear that there was no deliberate intention on behalf of the HCPC not to deal with the request but rather that HCPC did not have an adequate process in place to enable referral.

Other matters

20. The Commissioner considers that HCPC should ensure that all staff are made aware of the requirements of the FOIA and that an appropriate process is in place to aid prompt referrals to the FOI team.

Right of appeal

21. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF