

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 January 2017

Public Authority: Dr P J Southern
Address: Dicconson Group Practice
Wigan Health Centre
Frog Lane
Wigan WN6 7LB

Decision (including any steps ordered)

1. The complainant has requested information about GP patients who disclose that they have been racially abused. Dicconson Group Practice (DGP) says it does not hold this information.
2. The Commissioner's decision is that, on the balance of probabilities, DGP does not hold the requested information and has complied with its obligations under section 1(1) of the FOIA.
3. The Commissioner finds that DGP did not breach section 10(1) as it complied with section 1(1) within 20 working days.
4. The Commissioner does not require the public authority to take any steps.
5. The Commissioner notes that the medical practice itself is not a public authority for the purposes of the FOIA. Rather, each GP within the practice is a separate legal person and therefore each is a separate public authority. The Commissioner acknowledges that when an applicant makes a freedom of information request to a medical practice it is reasonable to expect for convenience that the practice will act as the single point of contact. However, each GP has a duty under section 1 of the FOIA to confirm or deny whether information is held and then to provide the requested information to the applicant, subject to the application of any exemptions. For ease and clarity, this notice refers to the Practice where appropriate in detailing the correspondence and analysis that has taken place.

Request and response

6. On 16 April 2016, the complainant wrote to DGP and requested information in the following terms:

"Please inform me whether or not you hold the following information.

1. What are the ways a GP should respond when their patient informs them that they have been harmed as a result of being racially abused.

2. What are the signs and symptoms that mean the patient might be likely to have been harmed as a result of being racially abused.

3. What environment is best suited for a patient to be asked relevant questions to help them disclose their past or current experiences of racial abuse to their GP.

4. What steps can the whole GP practice team (clinical and non-clinical) take to make it easier for patients to disclose that they have been a victim of racial abuse.

If you do hold the requested information please be so kind as to send me a copy."

7. DGP responded on 12 May 2016. DGP said that it does not hold policies relevant to the complainant's specific requests. Correspondence followed and on 18 May 2016, DGP confirmed that it does not hold the information he has requested.
8. Following an internal review DGP wrote to the complainant on 7 June 2016. It told the complainant that it considered that it had responded to his request within the 20 working day limit required by the FOIA. DGP also confirmed that it considered its responses to his request had been appropriate.

Scope of the case

9. The complainant contacted the Commissioner on 21 July 2016 to complain about the way his request for information had been handled.
10. The Commissioner's investigation has focussed on whether DGP has complied with its obligations under section 1(1) and section 10(1) of the FOIA.

Reasons for decision

11. Under section 1(1) of the FOIA, anyone who requests information from a public authority is entitled to be told (a) whether the authority holds the information and (b) to have the information communicated to him or her if it does.
12. In its submission to the Commissioner, DGP rightly notes that the FOIA concerns information held in recorded form and not, for example, information that someone may hold in their head. DGP has confirmed that it does not hold information falling within the scope of the complainant's request.
13. DGP has told the Commissioner that it has checked all its manual and electronic folders of clinical policies and no policies specific to the detection and treatment of the effects of racial abuse were identified. DGP says it used the search terms 'race', 'race policy' and 'racial' when it carried out its searches of electronic files. Furthermore, DGP says outdated policies and protocols are archived indefinitely. It has checked its archive and has not identified any relevant information there.
14. DGP maintains that it has not deleted or destroyed any information relevant to the complainant's request and says that it considers that it has never held any information relevant to the complainant's request.
15. DGP says its GP partners have confirmed that they do not adhere to any specific written clinical policy or protocol to deal with the issues that are the subject of the complainant's request. Instead, the GP partners consider that the questions the complainant has raised are ones on which opinions might be expressed and ones which concern the exercise of clinical judgement on a case by case basis. DGP has told the Commissioner that how its GPs and nurses respond to instances of racial abuse is based on their training and experience.
16. Having considered its submission, the Commissioner accepts that, on the balance of probabilities, DGP does not hold the information that the complainant has requested. She is satisfied that DGP has complied with section 1(1) of the FOIA. It told the complainant that it does not hold the information he requested, and the Commissioner accepts that relevant information is not held.

Section 10(1) – time for compliance

17. Section 10(1) of the FOIA says that a public authority should comply with section 1(1) promptly and no later than the twentieth working day following the date of receipt.
18. In this case, the complainant submitted his request on 16 April 2016, which was a Saturday. This was the date of receipt. Taking account of the Bank Holiday on Monday 2 May 2016, a response was due on Monday 16 May 2016.
19. DGP responded on 12 May 2016, at which point it told the complainant that it did not hold 'policies' falling within the scope of his request. The Commissioner considers that an expectation that 'policies' would be interpreted to include relevant information, more widely, would be a reasonable one. She is therefore satisfied that DGP complied with section 1(1)(a) of the FOIA when it responded on 12 May 2016. The Commissioner notes that, on 18 May 2016, DGP went on to specifically confirm to the complainant that it does not hold any relevant 'information'.

Right of appeal

20. 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

21. 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.
22. 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
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