

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 February 2023

Public Authority: Dr Yaqub Hussain
Dr Mohammed Javed Khan
Dr Khalid Naeem
Dr Zubair Dalal
Partners of Mount Pleasant Medical Centre &
Earlsheaton Medical Centre

Address: 69 Purlwell Lane
Mount Pleasant
Batley
WF17 7PF

Decision (including any steps ordered)

1. The complainant requested information from Mount Pleasant Medical Centre ("the Surgery") relating to their Complaint Policy. By the date of this notice the Surgery had not issued a substantive response to this request.
2. The Commissioner's decision is that the Surgery has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Surgery to take the following step to ensure compliance with the legislation.
 - The Surgery must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Surgery must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 19 December 2022, the complainant wrote to the Surgery and requested information in the following terms:

“Under the freedom of information act please could you kindly provide me with the following :

1. Complaint Policy”

6. The Surgery did not acknowledge the request.

Scope of the case

7. The complainant contacted the Commissioner on 2 February 2023 to complain about the Surgery’s failure to respond to their request.
8. The Commissioner has considered whether the Surgery has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. 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 a 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, subject to the application of any exemptions. For ease and clarity, this decision notice refers to the Surgery where appropriate in detailing the correspondence and analysis that has taken place.

10. Section 1(1) of FOIA states that:

“Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

11. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
12. On 4 February 2023 the Commissioner wrote to the Surgery, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
13. Despite this intervention the Surgery has failed to respond to the complainant.
14. From the evidence provided to the Commissioner in this case, it is clear that the Surgery did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Surgery has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF