

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 17 July 2018

**Public Authority:** NHS Commissioning Board (NHS England)  
**Address:** 4W08 4th Floor  
Quarry House  
Leeds  
LS2 7UE

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to complaints made against One Medical Group. NHS England refused to comply with the request under section 12 FOIA.
2. The Commissioner's decision is that NHS England was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the request. The Commissioner also considers that NHS England provided the complainant with appropriate advice and assistance in accordance with its obligations under section 16 FOIA.
3. The Commissioner requires no steps to be taken.

#### **Request and response**

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4. On 29 November 2017 the complainant requested information of the following description:

"Original Request: I have read the reports highlighted in your email and referenced by the weblink that you provided. None of the reports (so far as I can see) make any direct reference to One Medical Group or the actual GP practices that they "manage".

In summary my experiences with One Medical Group have given rise to concerns regarding their performance and integrity, am I keen to understand how often this organisation (or its many parts) has been the subject of formal complaints, remedial actions or other interventions.

Clarification: My definition of "details" includes copies of all complaints documents (anonymised if necessary), detailed statistics, summary statistics, comparative data (to understand whether OneMedical Group is performing outside the norm, etc), procurement assessments, financial assessments, etc.

You ask for clarity regarding "internal actions (remedial actions or other interventions), or patient complaints (formal complaints), or something else". I am a member of the public. I would like to see any and all correspondence, reports or data held by NHS England regarding OneMedical's (or its GP practices') financial, medical or other performance compared to its contractual obligations to NHS England, compared to NHS England expectations, and/or complaints about the performance of OneMedical's directors or its staff or its GPs. Such actions would, by definition include some actions which require actions that are "within" or "internal to NHS England" in its widest sense. I do not wish and am not seeking to be involved in hair-splitting or rhetorical tautologies.

I was unaware of the date limitations, but would be surprised if NHS England has ignored previous complaints histories of partner/supplier organisation. For example, as part of any procurement assessment of suppliers, NHS England will establish a wider-reaching and holistic view of each of its providers, which would include complaints histories. I would like to see all of these details."

5. On 18 December 2018 NHS England responded. It refused to comply with the request under section 12 FOIA as it said it would exceed the cost limit to do so.
6. The complainant requested an internal review on 19 December 2017. NHS England sent the outcome of its internal review on 22 December 2017. It upheld its original position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 11 January 2018 to complain about the way the request for information had been handled.
8. The Commissioner has considered whether NHS England was correct to apply section 12 FOIA to the request in this case.

## Reasons for decision

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### Section 12 – cost exceeds appropriate limit

9. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:
  - either comply with the request in its entirety, or
  - confirm or deny whether the requested information is held.
10. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request - 24 hours work for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
  - (a) determine whether it holds the information
  - (b) locate the information, or a document which may contain the information
  - (c) retrieve the information, or a document which may contain the information, and
  - (d) extract the information from a document containing it.
11. The appropriate limit for NHS England is £450 or the equivalent of 18 hours work.
12. NHS England has said that to establish what information it holds relevant to this request would greatly exceed 18 hours. It noted that in its response to the complainant dated 18 December 2017 it mistakenly stated that “NHS England holds [relevant] information”. It explained that this should have read “NHS England may hold [relevant] information.
13. It went on that as outlined in its response to the complainant, the request asks for “any and all” correspondence, as well as reports, complaints, statistics and other data regarding OneMedical Group. NHS England explained that where information is held, it is likely to be held across a number of different teams at local, regional or national level (depending on the type of information). It explained that OneMedical Group provide GP services across a number of geographical areas (including in Leeds, Reading, Sheffield and Derby). As such, even limiting its searches to information regarding patient complaints and

concerns would require input from multiple local teams, in addition to the national complaints team.

14. NHS England said that the searches which would be required in order to respond to this request would therefore be on a very large scale. It does not however consider it to be feasible to provide a specific estimate of how long it would take to comply with this request. This is due to the sheer volume of teams which may hold relevant information, the various types of relevant information which may be held, and the myriad ways in which this information may be held and/or referred to.
15. It explained that the national complaints team may hold information in respect of complaints and/or concerns received in regard to GP practices or other services provided by OneMedical Group. However, the patient may not have used "OneMedical Group" in their correspondence. As such, searches would need to be conducted for "OneMedical Group" and likely variants (e.g. "One Medical Group") plus the common name for each GP practice and/or other service. It is important to note that while NHS England does not commission walk-in or urgent care services (which OneMedical Group also provide), it is entirely possible that individuals have contacted NHS England to try and raise a complaint or concern about those areas.
16. It went on that the complainant has not provided a timeframe for the request. NHS England has previously advised the complainant that it has only existed as an organisation since April 2013, and the complainant has indicated in his internal review request that he would also expect information in relation to historic complaints which were handed to NHS England in April 2013. As such, it would need to review all complaints and concerns in order to establish whether any information is held.
17. However, NHS England did conduct a sampling exercise to support its application of section 12 FOIA in this case.
18. NHS England uses a case management system to log complaints and concerns. This system has been in use since April 2015. The system includes a 'provider' field to record the organisation to which the complaint or concern relates.
19. It conducted a search using the practices on the website here: <http://www.onemedicalgroup.co.uk/onemedicalcare> in order to locate any potential complaints related to these practices.
20. It did this by searching for any time any of these practices were entered in the "provider" field, or where they were mentioned in the description field (because the system which was in use prior to April 2015 did not

include a 'provider' field). It conducted the search in this way to ensure all relevant cases are captured.

21. It searched on reasonable alternative spellings as well (e.g. "St Thomas" and "Saint Thomas").
22. It confirmed that this search took 45 minutes to complete.
23. Through this, it identified 54 complaints, which would each need reviewing to establish if the complaint was in-scope for the request. From experience, this would take approximately five minutes per case – totalling 270 minutes.
24. In order to provide the applicant with the level of detail requested, it would then need to review all documents attached to the case, and extract the relevant information (e.g. the outcome of each complaint). It estimated that this would take approximately 20 minutes per in-scope case. Even applying a very conservative estimate that 75% of the cases found in the search would be in-scope, this would take 600 minutes. If all cases located in the search were relevant (which it considers to be more likely), this would take 1080 minutes.
25. It therefore estimates that to locate information in relation to patient complaints only would take between 915 minutes and 1395 minutes (15.25 – 23.25 hours).
26. Additional time would then be required to search for and locate any relevant information held in respect of general enquiries. NHS England receives a higher number of general enquiries than complaints, and as such it considers it to be very likely that the time required to review those cases would be considerably higher than the time required to review complaints.
27. Further time would then be required to locate any other information relevant to the applicant's request.
28. NHS England is therefore satisfied that it has appropriately demonstrated that the time required to comply with this request would greatly exceed the appropriate limit as set out at section 12 of the FOIA.
29. NHS England confirmed that the sampling exercise has considered the time which would be required to conduct 'keyword' searches, followed by manual reviews. It believes that this would be the quickest way locate any information held in respect of complaints. A similar approach would be required in order to locate any information held in respect of general enquiries.

30. Based upon NHS England's submissions, the Commissioner considers that due to the sheer volume of information that would need to be reviewed which is likely to be held in a variety of different locations it would exceed the cost limit under section 12 FOIA to comply with the request in this case.

### **Section 16 – Advice and Assistance**

31. Under section 16 FOIA NHS England is obliged to provide the complainant with advice and assistance to help the complainant refine the request to fall within the cost limit or explain why this would not be possible.

32. NHS England confirmed that it has provided the following advice and assistance to the complainant:

"However, if you were to refine your request for information within more specific margins, for example; focussed on specific geographical areas such as West Yorkshire, then we may be able to continue processing your request. Please note we cannot guarantee that Section 12(1) or any other exemptions will not apply to any information requested.

You may also wish to specify whether this request is solely focussed on One Medical Group's GP practices or whether this should also include other services offered by the company (such as walk in centres or urgent care centre) and whether this request is about practices solely operated by One Medical Group or should include practices which One Medical Group work closely with."

33. When responding to the complainant's Internal Review, it advised as follows:

"Without significantly limiting the parameters of your request (for example, requesting one distinct type of information such as patient complaints, over a short time period), it is not possible for NHS England to comply with your request within the time and cost limits as set out at section 12(1)."

34. NHS England said that it was therefore satisfied that it has provided the complainant with appropriate advice and assistance.
35. The Commissioner considers that NHS England has complied with its obligations under section 16 FOIA in this case.

## Right of appeal

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36. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

37. 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.
38. 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 .....**

**Gemma Garvey**

**Senior Case Officer**

**Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**