

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

### **Decision notice**

**Date:** 31 July 2023

**Public Authority:** Dr Mark Wilshere  
Dr Marc Crutchley

**Address:** Quayside Medical Practice  
Ashton Road West  
Manchester  
M35 0AD

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

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1. The complainant requested information from Quayside Medical Practice (the Practice) relating to a wide range of matters. The Practice refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the request was vexatious and therefore the Practice was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

#### **Status of GPs under FOIA**

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4. The Commissioner notes that the Practice itself is not a public authority for the purposes of 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 a person 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.
5. For ease and clarity, this decision notice refers to "the Practice" where appropriate in detailing the correspondence and analysis that has taken place.

## **Request and response**

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6. On 8 May 2023, the complainant made a 51-part request for information to the Practice. The request is given in full in an annex at the end of this notice.
7. On 9 May 2023, the Practice responded and said the request was being refused because it was vexatious under section 14(1) of FOIA.
8. Following an internal review, the Practice wrote to the complainant upholding its position.

## **Scope of the case**

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9. This notice covers whether the Practice correctly determined that the request was vexatious.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

10. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious. Section 14 is an absolute exemption and therefore not subject to the public interest test.
11. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)<sup>1</sup> states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
12. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

13. However, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
14. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
15. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The four broad themes considered by the Upper Tribunal in Dransfield were:
  - the burden (on the public authority and its staff);
  - the motive (of the requester);
  - the value or serious purpose (of the request); and
  - any harassment or distress (of and to staff).
17. However, the UT emphasised that these four broad themes are not a checklist and are not exhaustive. They stated:

"all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

### **The complainant's view**

18. In correspondence to the Commissioner the complainant stated they believed their request was 'a valid...legitimate and reasonable request for information'.

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<sup>2</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

19. Although the request is valid as it complies with section 8 FOIA, in that it has been made in writing; states the name of the applicant and an address for correspondence; and describes the information requested this does not automatically mean the information will be provided.

### **The Commissioner's decision**

20. In cases where a public authority is relying on section 14(1), it is generally for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
21. However, having reviewed the information provided by the complainant the Commissioner did not feel it necessary to seek further arguments from the Practice.
22. The Practice has over 5,500 patients on its list and eight GPs. It also provides training to a range of staff including trainee doctors and medical students. It is clear that responding to the request would create a significant burden and distract the Practice from its core function of providing health care services.
23. There is further evidence that the purpose and value of the request is diminished as it asks for a range of information covering many different areas, rather than focussing on one particular issue. The Commissioner considers this to be a 'scattergun' approach.
24. Although FOIA is usually applicant and motive blind, this can be taken into account when considering section 14. Having considered the timing of the request and the background, it appears to the Commissioner that the request is designed to cause irritation.
25. The Commissioner believes that the request was vexatious and therefore the Practice was entitled to rely on section 14(1) of FOIA to refuse the request.

## Right of appeal

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26. 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](mailto:grc@justice.gov.uk)

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

27. 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.
28. 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**

## **Annex**

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1. The number of appointments missed by patients in the past 24 months, broken down by month and type of appointment.
2. The number of complaints received by the practice in the past 24 months broken down by category and outcome of the complaint.
3. How many data breaches have the practice reported to the Information Commissioner's Office (ICO) within the last 24 months and what was the outcome and the measures taken to prevent and address them.
4. The total number of patients registered with the practice as of the date of this request.
5. Total number of patients transferred from Failsworth Group Practice.
6. Number of patients that have transferred from Quayside in the last 24 months.
7. Number of available GP appointments per week per 1000 patients at Quayside Medical Practice.
8. The total number of doctors, nurses, locum's and other staff members employed by the practice as of the date of this request.
9. The total number of locum doctors used in the last 24 months.
10. The number of GP registrars at the practice.
11. Number of salaried GPs at the practice.
12. Number of lead GPs with additional responsibilities in the practice.
13. Number of GPs partners at the practice.
14. Number of GPS trainers at the practice.
15. Number of GP appraisers responsible for assessing the performance of other GPs at the practice.
16. A list of areas from which patients are eligible to join Quayside medical practice.
17. Average waiting time from requesting a GP appointment online to being seen not including the same day.
18. Average waiting time from requesting a GP appointment by telephone, not including the same day.

19. Average waiting time from requesting a GP appointment by e-mail, not including the same day.
20. Number of face to face GP appointments available online each day for the last 24 months.
21. Number of telephone GP appointments available online each day for the last 24 months.
22. Number of appointments a patient is allowed to book for an appointment with a GP.
23. Number of appointments a patient is allowed to book for any other service or treatment.
24. The policy on restrictions and limitations regarding the number of appointments a patient can book.
25. The number of patients that have been removed by the practice in the past 24 months and the reasons for their removal.
26. The total amount spent by the practice on advertising and marketing in the past 12 months, broken down by category.
27. Details of any advertising displayed on the practice's website including any promotion promotions for Dr Marks offering vitamins.
28. Details of any financial benefits derived by the practice as a result of such advertising including payments made by Dr Marks.
29. The amount of revenue earned by Quayside medical practice from advertising Dr Marks on their website.
30. Details of any potential conflicts of interest that arise from the ownership of Dr Marks by Quayside medical practices GPs.
31. Details of whether the 15% discount off vitamins using the QUAYSIDE code is only available to Quayside medical practice patients.
32. Details of policies and guidelines in place regarding advertising by the practice, including compliance with ethical and professional standards.
33. The number of patient records that have been lost or stolen in the past 24 months and the steps taken by the practice to prevent such incidents.
34. The number of staff members who have undergone data protection training in the past 12 months.

35. The training and support provided to staff on data protection and information security and how this is monitored and evaluated to ensure that staff are aware of their responsibilities and obligations.
36. The practice's policy on patient confidentiality, including any procedures for ensuring the privacy of patient information and responding to breaches of confidentiality.
37. The practice's policy on patient data protection, including any procedures for ensuring the security of patient data and responding to data breaches.
38. The total budget allocated to the practice by NHS England for the current financial year.
39. The details of any contracts or agreements between the practice and 3rd party providers, including the names of the providers and the services provided.
40. The number of repeat prescriptions issued by the practice in the past 12 months broken down by type of medication.
41. The number of home visits conducted by the practice in the past 12 months broken down by month.
42. Details of the EMR system used by Quayside Medical Practice, including the name of the system, vender and the date it was implemented.
43. A copy of the contract between Quayside medical practice and the EMR system including the date it came into force and any subsequent amendments.
44. A copy of the contract between Quayside medical and Medi2data (Medidata exchange) and the date it was entered into.
45. Policy on patients' subject access requests including how the information is provided to the patients.
46. The specific procedure in place for handling such requests and who is appointed to deal with such requests.
47. Policy on fees associated with this process.
48. Policy on how many times a patient can make a subject access request.
49. The practice's secure shredding policy, including frequency of shredding and any third-party companies used for shredding services.



50. When the practice last updated the privacy policy on the website.

51. Any other information related to the practices information governance policies and procedures, including risk assessments, audits, and compliance reviews.