

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 May 2017

Public Authority: Parbold Surgery
Address: 4 The Green
Parbold
Wigan
WN8 7DN

Decision (including any steps ordered)

1. The complainant has requested information regarding the retention and destruction policies in respect of minutes of practice meetings. The Surgery initially overlooked the request and therefore did not provide a response. Following a complaint to the Commissioner the Surgery recognised its error and provided a response albeit the delay meant it had failed to do so within the twenty working days required by the FOIA.
2. The Commissioner's decision is that the Surgery breached section 10 of the FOIA by failing to respond to the request within twenty working days.
3. However as the Surgery has now provided a response the Commissioner does not required in respect of this complaint.
4. 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 actual 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 rests with each GP. However the Commissioner acknowledges that when an applicant makes a freedom of information request to a medical practice, or a single GP within the practice, it is reasonable to expect for convenience that the practice will act as the single point of contact and provide a response on behalf of the GPs concerned.

Request and response

5. On 11 December 2016, the complainant wrote to the Surgery and requested information in the following terms:

"I requesting a copy of the recorded information you hold of the :-

1. Minimum retention period for which the minutes of all your practice meetings for the years 2013 and 2014 should be retained.
 2. Disposal process and schedule in respect of the minutes of all your practice meetings for the years 2013 and 2014.
 3. Records you should make in respect of the destruction of the minutes of all your practice meetings for the years; 2013 and 2014 should be retained."
6. Unfortunately the Surgery initially failed to recognise this communication as a request under the FOIA and did not respond. The complainant therefore emailed the Surgery again on 10 February 2017 at which time he repeated his request and asked the Surgery to review its handling of that request.
7. After the Surgery failed to respond to the request again, the complainant contacted the Commissioner on 24 April 2017. The Commissioner rang the Surgery which quickly recognised its oversight and on 28 April 2017 it contacted the complainant to apologise.
8. On 5 May 2017 the Surgery provided the complainant with its policies for all data destruction and retention. It also explained that agendas and minutes of minutes were not deleted but retained electronically.

Scope of the case

9. When the complainant contacted the Commissioner on 24 April 2017 to complain about the way his request for information had been handled, he raised not only in respect of the Surgery's failure to provide him with the requested information, but also its failure to confirm whether the information was held or provide a valid refusal notice in the event it wished to withhold the requested information.
10. As the Surgery has now provided a response to the request the Commissioner considers that the matter to be decided is whether that response was provided within the time for compliance set out in section 10 of the FOIA.

Reasons for decision

Section 10 – time for compliance

11. Upon receipt of a request a public authority is required under section 1(1) of the FOIA to firstly confirm or deny whether it holds the requested information and then, if the information is held, to provide the information, subject of course to the application of any exemptions.
12. Section 10 of the FOIA provides that a public authority must comply with its obligations under section 1(1) promptly and in any event no later than the twentieth working day following its receipt.
13. The request was received on 11 December 2016. The Surgery did not provide a response within the required twenty working days. It therefore breached section 10(1) of the FOIA.

Right of appeal

14. 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

15. 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.
16. 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

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