

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 March 2023

Public Authority: Dr Yaqub Hussain, Dr Mohammed Javed Khan,
Dr Khalid Naeem and Dr Zubair Dalal

Address: (Partners of Mount Pleasant Medical Centre)
69 Purlwell Lane
Batley
WF17 7PF

Decision (including any steps ordered)

1. The complainant requested information about patients. By the date of this notice, the partners of Mount Pleasant Medical Centre ("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.

Status of GPs under FOIA

5. The Commissioner notes that Mount Pleasant Medical Centre 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 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. However, each GP has a duty under section 1 of the FOIA to confirm or deny whether they hold information and then to provide the requested information, subject to the application of any exemptions. For ease and clarity, this decision notice refers to the public authority as "the Surgery".

Request and response

6. On 28 November 2022, the complainant wrote to the Surgery and requested information in the following terms:

"The Freedom of Information (FOI) Act 2000 (the Act) gives people the right to request recorded information held by public authorities, including information which is held by the Mount Pleasant Medical Centre, subject to certain conditions as detailed in the Act.

Please provide how many patients have been given a warning annually (Jan - Dec) from 2016 to present at the Mount Pleasant Medical Centre

Please provide how many patients have been removed from the surgery list annually (Jan - Dec) from 2016 to present at the Mount Pleasant Medical Centre

You will acknowledge my request within three working days and I can expect to receive a response within 20 working days.

The Mount Pleasant Medical Centre does not need to know why I am making the request"

7. The Surgery did not acknowledge or respond to the request and so the complainant chased the Surgery on 9 January 2023 and received an 'out of office' automatic email from the recipient. To date, a substantive response has not been issued.

Scope of the case

8. The complainant contacted the Commissioner on 10 January 2023 to complain about the Surgery's failure to respond to their request.
9. 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

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 12 January 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. The Surgery responded to the Commissioner, advising that they were refusing the request and the Commissioner responded, providing advice and assistance to the Surgery, about their obligation to respond to the complainant.
14. Despite this intervention, the Surgery has failed to respond to the complainant.
15. 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) of FOIA 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

16. 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

17. 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.
18. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF