

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 February 2023

Public Authority: General Dental Council
Address: 37 Wimpole Street
London
W1G 8DG

Decision (including any steps ordered)

1. The complainant requested information relating to previous information request responses provided by the General Dental Council (GDC), as well as other information about the creation of the 'at home aligner's' position statement. By the date of this notice GDC had not issued a substantive response to this request.
2. The Commissioner's decision is that GDC 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 GDC to take the following step to ensure compliance with the legislation.
 - GDC must provide a substantive response to the request in accordance with its obligations under FOIA.
4. GDC 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 24 November 2022, the complainant wrote to GDC and requested information in the following terms:

"On 16th June 2022 we made a Freedom of Information Act request. On 18th July 2022 you replied to that request. On 21st July we made a second Freedom of Information Act request, which you replied to on 17th August 2022. We made a third Freedom of Information Act request on 27th September 2022, which was responded to on 2nd November 2022. This is now the fourth request we are having to make for information. We do not know what information the GDC holds in relation to the 'at home aligners' position statement issued. Instead of providing full and frank documentation, we are having to return time and again to seek information that would have fallen within our initial requests.

We write to request further information under section 1(1) of the Freedom of Information Act 2000 as follows:

1. In your first FoI response you stated that you had spoken to the CQC. However, in your second FoI response you did not provide any details of meetings held with the CQC. Please provide the dates you held meetings with the CQC and any notes from those meetings.
2. In your first FoI response you stated that you had spoken to your own clinical advisors. Please provide any notes of those conversations and/or notes by the clinical advisors. Please also provide any documents held by the clinical advisors in respect of the 'at home aligner's' position statement.
3. In your first FoI response you relied on s22 of Freedom of Information Act 2000 and did not disclose your research on the basis that it would be publish publically 'in or before November 2022'. Having looked on the GDC website it is not apparent that this information has now been published. If it has please provide a link to the same. If not we now request copies of that evidence. S22 can only be relied upon where it is 'reasonable in all the circumstances that the information should be withheld'. We now contend that it is no longer reasonable in all the circumstances to withhold this information. Our client is facing fitness to practice procedures as a result of the GDC's position statement. In order to properly defend his position he needs to understand the basis of the position statement. His future registration is potentially dependant on it. We therefore now ask that this be disclosed.
4. In your first FoI response you state 'We also had exploratory conversations about perceptions'. Please confirm who these

exploratory conversations were with including the date they took place and provide any notes of those conversations.

5. In your second FoI response, in response to the request to provide copies of the concerns raised, you provided a link to a BDA press release. On reviewing that press release it clearly states dental leaders have raised concerns with the GDC. Please now provide all copies of the concerns held by the GDC regarding at home aligners.

6. The BDA press release referred to by the GDC, links to a press statement on the GDC's website. This statement says 'We have contacted providers of these services to seek clarification on the procedures'. Please provide copies of all communications to providers requesting information and all responses received. We appreciate that the names of providers will need to be redacted but all other information should be provided.

7. In your third FoI response, you provide the meeting notes from the meeting on 18th March 2021. In those notes it states 'The Executive Director, Strategy and the Policy Manager presented the paper providing an update on the Registrar's position on the application of the Standards for the Dental Team for those practising remotely'. Please provide a copy of the paper presented.

8. Any and all other information held by the GDC in relation to the creation of the 'at home aligner's' position statement." (sic)

6. GDC acknowledged the request on 17 January 2023. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 11 January 2023 to complain about GDC's failure to respond to their request.
8. The Commissioner has considered whether GDC has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. 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."

10. 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".
11. On 16 January 2023 the Commissioner wrote to GDC, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention GDC has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that GDC did not deal with the request for information in accordance with FOIA. The Commissioner finds that GDC 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

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

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