

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

### **Decision notice**

**Date:** 23 August 2023

**Public Authority:** Kensington Partnership  
**Address:** Kensington Street Health Centre  
Whitefield Place  
Bradford  
BD8 9LB

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

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1. The complainant has requested information from Woodroyd Medical Practice (WMP), which is a part of Kensington Partnership (the Partnership), regarding the numbers of patients, their ethnicity and details about patients being removed from the practice.
2. The Partnership initially responded by providing information, but the complainant did not consider it had provided what he had asked for. Following an internal review, the Partnership advised the complainant that the information was not held. It also refused the request under section 14(1) of the FOIA – vexatious request.
3. The Commissioner's decision is that section 14(1) of the FOIA is engaged.
4. The Commissioner does not require the Partnership to take any steps.

## Request and response

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5. On 13 June 2022 the complainant made the following information request to the Partnership in relation to WMP:

“The total number of patients on the woodroyd surgery’s roll for the periods 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022

Number of patients removed from the roll for each said period and the reason for removal

Ethnicity of those removed together with any reasons for removal together with internal identification of the staff member who removed patient

Number of initial warning letters sent out for each period

Number of final warning letters sent out for each period

Interval period between initial warning letter and final letter for each patient for all the above periods.”

6. The Partnership responded on 23 June 2022. It provided a copy of its zero-tolerance policy and advised that it did not hold the requested information.
7. The complainant contacted the Commissioner on 15 August 2022 to complain that the Partnership has not provide him the information. The Commissioner advised the complaint to first request the Partnership to carry out an internal review.
8. The complainant requested an internal review on 13 September 2022 and then followed this up on the 9 October 2022 as no response had been received. He then contacted the Commissioner again to advise no internal review had been provided.
9. The Commissioner contacted the Partnership on 26 October 2022. He asked it to carry out an internal review within 10 working days.
10. The complainant contacted the Commissioner further as no internal review was received.
11. The Partnership provided the Commissioner with a copy of its internal review on 19 May 2023. It said that the information is not held and it is refusing the request as it considers it to be vexatious.

12. Due to the time it took for the Partnership to undertake an internal review, the Commissioner forwarded a copy of it to the complainant, rather than requesting the Partnership do it.

### **Scope of the case**

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13. The complainant contacted the Commissioner again disputing the Partnership's refusal of his request.
14. The scope of the case is for the Commissioner to determine whether the request is vexatious as per section 14(1) of the FOIA.

### **Reasons for decision**

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#### **Section 14(1) of the FOIA – vexatious requests**

15. Broadly, section 1(1) of FOIA requires a public authority to confirm whether or not requested information is held, and to provide a copy of that information to the requestor where no exemptions are applicable.
16. Section 14(1) of the FOIA states that a public authority does not have to comply with the requirements of section 1(1) where a request for information is vexatious.
17. The term vexatious is not defined in the FOIA. The Upper Tribunal considered the issue of vexatious requests in the case of the Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")<sup>1</sup>. The Tribunal commented that vexatious could be defined as the "manifestly unjustified, inappropriate or improper use of a formal procedure." The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
18. In the Commissioner's view, the key question for public authorities to consider when determining if a request is vexatious is whether the value and purpose of the request justifies the distress, disruption or irritation that would be incurred by complying with it.

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<sup>1</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

19. In this case the Partnership said that the request stems from the complainant's history with WMP. The complainant was de-registered from the practice. It said that this was due to having received two zero-tolerance warnings for his behaviour.
20. The Partnership advised he was sent his first zero-tolerance warning letter on 25 January 2022 and his second on 21 February 2022. He was subsequently deregistered from the practice.
21. The Partnership has explained to the Commissioner that it does not take de-registering a patient lightly, as its purpose is to provide a service to the Community and help patients with health concerns.
22. The Partnership has advised it has received a letter from a solicitor disputing the deregistering, and a letter from a local MP. In both instances the Partnership upheld its decision due to the seriousness of the language and behaviour from the complainant.
23. The Partnership considers that the intentions of this request are to vent anger and attack WMP rather than there being a wider public interest in obtaining the information. It argues that in having to respond to this request, it would further the harassment and stress placed on its staff.
24. The complainant disputes the Partnership's position and states the real reason for them doing this needs to be brought to light. The complainant states that they have been at the practice most of their life and the time they have complained everything has been turned around on them.
25. The complainant states that they need the requested information in order to find out why this has happened.

The Commissioner's decision.

26. The Commissioner has considered the submissions on this case. He accepts the Partnership's position that the language used against its staff would have caused them unjustified distress.
27. Whilst the Commissioner recognises that there may be a wider public value to the requested information being disclosed, he accepts the Partnerships position that having to respond to the request would cause further unnecessary stress on its staff and create an unjustified burden on its time and resources in this instance.
28. The Commissioner therefore finds that section 14(1) of the FOIA is engaged, and that the Partnership was correct to apply the exemption in this case.

## Right of appeal

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29. 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@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)

30. 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.
31. 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 .....**

**Ian Walley**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**