

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 July 2019

Public Authority: Department of Health and Social Care
Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant originally made a request for information which in broad terms, related to guidance on dealing with patients who had suffered domestic abuse. Following the refusal of that request under section 12, the complainant submitted a refined request. The Department of Health and Social Security (DH&SC) responded to that request. Although the complainant was satisfied with the information that he was provided with, he complained about the time it had taken the DH&SC to provide that response.
2. The Commissioner's decision is that the DH&SC failed to respond to the request within the twenty working days. It has therefore breached section 10 of the FOIA.
3. As the information was ultimately provided to the complainant, the Commissioner does not require the public authority to take any further action in this matter.

Request and response

4. The complainant's original request was refused by the DH&SC under section 21 of the FOIA – information accessible to the applicant, and this resulted in a complaint to the Commissioner. During the subsequent investigation the DH&SC changed its position and relied on section 12 the appropriate (cost) limit to refuse the request. The DH&SC also went on to provide the complainant with advice and assistance with a view to enabling him to make a refined request. The Commissioner's investigation of the original complaint concluded with the service of a

decision notice, reference FS50758474, upholding the DH&SC's application of section 12. The complainant then made a refined request on 1 May 2019 based on the advice offered by the DH&SC during the Commissioner's investigation. It is this refined request which is the subject of this notice. The request was made in the following terms:

"To assist you please limit the scope of your search to elements of question 3 of my FOI which stated -

'3) I am requesting a copy of publications you hold which superseded the document detailed below and which were available in 2009 for:-

A) General Practitioners to use.

B) Health care professionals to use.

Title: Responding to domestic abuse: a handbook for health professionals

Author: Department of Health Publication Date December 2005

ROCR Ref: Gateway Ref: 5802 '

and so specifically I wish to receive a copy of information you hold about domestic abuse that was;

A)

Authored by Department of Health and also available in 2009 for General Practitioners to use.

B)

Authored by Department of Health, Best Practice guidance and also available in 2009 for General Practitioners to use.

C)

I also wish to receive a copy of the information in the document that was available in 2009 for General Practitioners to use and superseded the document titled -

Title: Responding to domestic abuse: a handbook for health professionals

Author: Department of Health Publication Date December 2005

ROCR Ref: Gateway Ref: 5802 '

Now if there was no superseding document in 2009 and that the above 2005 document was the only one (authored by Department of Health) still available for GP's to use please be so kind as to inform me of that."

5. The DH&SC provided a response on 14 June 2019, but it appears that the complainant did not receive it. When the DH&SC became aware of this it re-sent the response on 28 June 2019.

Scope of the case

6. On 7 July 2019 the complainant contacted the Commissioner and advised her that he was satisfied with the information he had now received, but felt the DH&SC had failed to provide the information within the 20 working days required under section 10 of the FOIA.
7. The Commissioner considers that the matter to be decided is whether the DH&SC complied with section 10 of the FOIA.

Reasons for decision

Section 10 – time for compliance

8. Section 1 of the of FOIA states that any person making a request to a public authority is entitled to be to be informed whether the information is held and, if it is, to have that information communicated to them, subject of course to the application of any exemptions.
9. Section 10 of the FOIA provides that a public authority must comply with its section 1 obligations promptly and in any event, not later than the twentieth working day following the receipt of the request.
10. It should be noted that where an applicant submits a refined request following the refusal of a previous request under section 12 on grounds of cost, that refined request is a new request and the public authority is required to deal with it within the twenty working days set out in section 10.
11. The request was made on 1 May 2019. Allowing for the two bank holidays in May, the twentieth working day following its receipt would have been 31 May 2019. As the DH&SC did not provide a response by that date, it breached the requirements of section 10.
12. However, as the DH&SC has now complied with the request the Commissioner does not required the department to take any further action in this matter.

Right of appeal

13. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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.
15. 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 Mechan
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF