

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 February 2013

**Public Authority:** Wm Morrisons Supermarkets Plc  
**Address:** Hilmore House  
Gain lane  
Bradford  
BD3 7DL

#### Decision (including any steps ordered)

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1. The complainant has asked Wm Morrisons Supermarkets Plc ('Morrisons') for information about the opening hours of Morrison's pharmacies on Christmas Day 2011 and Easter Sunday 2012.
2. The Commissioner's decision is that Morrisons did not deal with the request for information in accordance with the FOIA in the following way:
  - It failed to provide a response to the request within the statutory time frame of 20 working days
3. As a response has now been provided, the Commissioner requires no steps to be taken.

#### Background

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4. Morrisons is a public authority under the terms of the FOIA in respect to the provision of NHS pharmaceutical services. Section 3 (1) of the FOIA states that:

*'In this Act "public authority" means.....any body.....which is listed in Schedule 1'*

Schedule 1 of the Act states in paragraph 44:

*'Any person providing medical services, general dental services, general ophthalmic services or pharmaceutical services under Part II of the*

*National Health Service Act 1977, in respect of information relating to the provision of these services.'*

## **Request and response**

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5. On 12 August 2012, the complainant wrote to Morrisons and requested information in the following terms:

*"Please tell me how many of your pharmacies in England were:*

*(1)(a) directed by a Primary Care Trust to open on Christmas Day 2011, and (b) opened on Christmas Day 2011*

*(2)(a) directed by a Primary Care Trust to open on Easter Sunday 2012, and (b) opened on Easter Sunday 2012*

*...please can you also provide lists of the pharmacies which were directed, and which opened, on each of the days specified."*

6. Morrisons responded on 13 August 2012 and stated that they were not directly subject to the FOIA and that any requests for information should be directed to individual PCTs.
7. The complainant requested an internal review on 14 August 2012 and chased this, having received no response, on 10 September 2012.
8. On 22 September 2012 the complainant referred the matter to the Information Commissioner's Office. The Commissioner wrote to Morrisons and asked it to review the matter.
9. On 29 November 2012 Morrisons wrote to the Commissioner stating they accepted that they were a public authority under the FOIA in relation to their provision of pharmaceutical services to the National Health Service but that they believed that the information was exempt from the FOIA under section 43.
10. Following further correspondence with the Commissioner Morrisons released the information to the complainant on 18 January 2013.

## **Scope of the case**

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11. The complainant contacted the Commissioner on 22 September 2012 to complain about the way his request for information had been handled.

12. As the information had been provided to the complainant by this date, Morison's application of section 43 will not be considered.
13. The scope of this case is therefore concerned with the late provision of the requested information.

### **Reasons for decision**

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14. Section 10(1) of FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
15. From the information provided to the Commissioner in this case it is evident that Morrisons did not respond to the complainant in accordance with its obligations under section 1(1)(a) and (b) within the statutory time frame as specified in section 10(1) of the FOIA.

## Right of appeal

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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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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 .....**

**Lisa Adshead**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**