

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2016

Public Authority: Dr P J Southern
Address: Dicconson Group Practice
Wigan Health Centre
Frog Lane
Wigan WN6 7LB

Decision (including any steps ordered)

1. The complainant has requested information about the health and social issues of people of mixed race, which Dicconson Group Practice (DGP) says it does not hold.
2. The Commissioner's decision is that DGP was correct to handle the request under the FOIA. He has decided that, on the balance of probabilities, DGP does not hold the requested information. The Commissioner finds that DGP breached section 10(1) of the FOIA, however, because it did not respond to the request within 20 working days.
3. The Commissioner does not require the public authority to take any steps.
4. The Commissioner notes that the medical practice 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 an applicant makes a freedom of information request to a medical practice it is reasonable to expect for convenience that the practice will act as the single point of contact. However, each GP has a duty under section 1 of the FOIA to confirm or deny whether information is held and then to provide the requested information to the applicant, subject to the application of any exemptions. For ease and clarity, this notice refers to the Practice where appropriate in detailing the correspondence and analysis that has taken place.

Request and response

5. On 15 November 2015, the complainant submitted a request for information to Dicconson Group Practice in the following terms:

"Please inform me whether or not you hold the following information.

If you do hold the requested information please be so kind as to send me a copy.

I am requesting a copy of information you hold that documents what are the health and social issues that mixed race individuals may suffer from due to their experience of ethnic isolation.

By Ethnic isolation I am referring to mixed race individuals being brought up and/or living in communities and/or families that are almost exclusively White and where there is almost no meaningful contact and interaction with other Black and Minority Ethnic people.

By mixed race I mean having both a White and a Black parent."

6. DGP did not respond and the matter was referred to the Commissioner. Following the Commissioner's intervention, DGP provided the complainant with a response on 15 February 2016. It said it does not hold the information the complainant has requested.
7. Following an internal review DGP wrote to the complainant on 7 March 2016. It apologised for the delay in responding to his request and explained why this had happened. DGP confirmed that it does not hold the requested information.

Scope of the case

8. The complainant had contacted the Commissioner on 11 February 2016 because he had not received a response to his request. On receipt of the response, the complainant remained dissatisfied.
9. The complainant has submitted a number of requests to DGP over the last year or two. Two of these requests have resulted in decisions by the Commissioner: [FS50599435](#) and [FS50576462](#). The complainant considers that DGP's response to the request in this case is another example of it deliberately ignoring his request, which is causing him distress. The complainant also considers that DGP does hold information within the scope of his request.

10. The Commissioner has considered the time it took for DGP to respond to the request and whether it was reasonable to consider the request under the FOIA. He has finally considered whether, on the balance of probabilities, DGP holds the information the complainant has requested.

Reasons for decision

Section 1 – information held/not held

11. Section 1(1) of the FOIA says that anyone who submits a request for information to a public authority is entitled to be told whether the authority holds the information and, if it does, to have that information communicated to him or her.
12. The complainant told the Commissioner that he has information that shows that DGP *does* hold information about health and social issues people of mix race may suffer from as a result of social isolation. On further questioning by the Commissioner, it appeared that the evidence to which the complainant referred was information provided to DGP through his own correspondence with DGP and his own medical records. The Commissioner has discounted the personal information to which the complainant has referred as evidence that DGP holds the information he has requested.
13. This is because, having reviewed the request, the Commissioner's view is that it was reasonable for DGP to interpret it as a request for broad information under the FOIA and not as a subject access request under the Data Protection Act (DPA). The request is specific and refers to the social and health issues to which "mixed race individuals" may be subject. It refers to individuals (plural) of mixed race generally; it does not mention the complainant specifically. On this occasion, the Commissioner does not consider that DGP could have reasonably inferred from the request that the complainant was requesting his own personal data; a request it may or may not have gone on to handle under the DPA.
14. In the Commissioner's view, DGP correctly interpreted the request as a request for general information under the FOIA. When it responded to the request on 15 February 2016, it told the complainant that it does not hold this information.
15. In a telephone conversation with the Commissioner on 15 March 2016 DGP confirmed that it was sure that it does not hold the information that the complainant has requested. The information in question is very specific. The Practice Manager had asked all the Practice GPs if they held any information that falls within the scope of the request, and they

all said that they did not. The Practice Manager was also sure that the Practice did not hold any relevant leaflets or other material. DGP observed that the area in which it is located has a low proportion of residents who are of black and minority ethnic origin. It said that it would not hold material for which there is not a great demand as it would go out of date. Wherever possible, DGP says it signposts people who want specific information to a more appropriate organisation.

16. On the balance of probabilities, the Commissioner is prepared to accept that DGP does not hold the information the complainant has requested and has complied with its obligations under section 1(1) of the FOIA.

Section 10 – time to respond

17. Section 10(1) of the FOIA says that a public authority must respond to a request for information within 20 working days.
18. When the Commissioner first contacted DGP about its non-response to the request on 12 February 2016, DGP told him that it had no record of having received the request.
19. The Commissioner provided DGP with evidence the complainant had provided which showed that he had submitted the request in question on 15 November 2015. The request appeared to have been submitted through DGP's website.
20. It appears to the Commissioner that DGP immediately contacted its website company to look into why it had no record of having received the request. On 16 February 2016 DGP confirmed to the Commissioner that the web team had confirmed that the request had been submitted through the 'Contact Us' facility on the website.
21. In its internal review to the complainant of 7 March 2016, DGP acknowledged that it had not responded to his request within 20 working days and apologised. DGP thanked the complainant for bring to its attention the apparent problem with its website. It explained to him that it now has a system in place to make sure that all messages that come into the Practice via the secure email account on its website have the appropriate action assigned to them. It confirmed that it has dedicated members of staff who will now check the mail box throughout each day.
22. Having considered all the circumstances of the case, the Commissioner is prepared to accept that, due to an administrative problem, DGP had not received the request when it was originally submitted on 15 November 2015. As such, he is prepared to accept that DGP's initial failure to respond to the request was a genuine oversight and that it had not been deliberately ignored. He notes that DGP investigated promptly

why it had no record of the request and went on to provide the complainant with a response within three days of the Commissioner's first contact.

23. Nonetheless, the Commissioner must find that Dicconson Group Practice breached section 10(1) of the FOIA on this occasion.

Right of appeal

24. 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@hmcts.gsi.gov.uk

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

25. 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.
26. 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF