

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 June 2024

**Public Authority:** Dr Julian Medical Group Limited  
**Address:** The 1921 Building East Malling Business Centre  
New Road  
East Malling  
Kent  
ME19 6BJ

#### Decision (including any steps ordered)

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1. The complainant has requested from Dr Julian Medical Group Limited (the public authority) the name of a complaint investigator's professional membership body. The public authority applied section 14(1) of FOIA (vexatious request) to refuse the request.
2. The Commissioner's decision is that the public authority was not entitled to rely on section 14(1) in refusing to provide the requested information.
3. As the complainant has since obtained the requested information it is therefore not necessary for the public authority to take any steps.

#### Background

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4. The complainant attended an assessment appointment by 'live messaging' with a therapist from the public authority on 26 October 2022. The assessment was requested by 'Inclusion Thurrock', which, is part of Midlands Partnership University NHS Foundation Trust (the Trust).
5. On 18 June 2023, the complainant wrote to the public authority and made a complaint about the therapist being biased and misquoting /

misrepresenting information in the assessment 'clinical contact summary' (notes).

6. On 6 July 2023, having completed its investigation, the public authority wrote to the complainant with its decision – that the complaint is not upheld but agreed to make some rectifications to the notes. Dissatisfied with its decision, the complainant replied requesting additional rectifications to the notes and asked for a 'further review' of the investigation. The public authority replied stating it will provide 'no further input' and that the Trust is the lead investigator.
7. On 7 July 2023, the complainant wrote to the public authority and requested the name of the therapist's professional membership body. The complainant raised a complaint to the Commissioner about the public authority's handling of that request. The Commissioner investigated the matter and upheld the complaint in IC-277500-Y3B9.

## **Request and response**

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8. On 10 July 2023, the complainant wrote to the public authority and requested information in the following terms:  
  
"Please would you provide the credentials (experience and qualifications) and the professional association of the person responsible for the investigation and response received for my complaint submitted on 18th June."
9. The public authority responded on the same day and applied section 14 of FOIA (vexatious request) to refuse the request. It said that any request for personal information pertaining to any of its employees or associates "will be automatically refused under section 17(6) of FOIA".
10. On 15 December 2023, the complainant wrote to the public authority expressing dissatisfaction with its handling of the request.

## **Scope of the case**

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11. On 15 December 2023, the complainant contacted the Commissioner to complain about the way their request for information had been handled.
12. During the course of the Commissioner's investigation, the complainant narrowed the scope of the request to only the name of the investigator's professional membership body. They said that since making the request, they have acquired this information by other means, made a complaint about the investigator to the professional membership body on 14 July 2023, and received its decision - not upholding the complaint on 19

January 2024. The public authority said that making a complaint to the Commissioner following receipt of the professional membership body's decision is evidence of the complainant's 'vexatious intent'.

13. The Commissioner acknowledges that the complainant raised their complaint to him after obtaining the requested information and receiving the professional membership body's decision. This does not however circumvent the complainant raising a complaint to the Commissioner about the public authority's handling of the request at the time the request was made.
14. The Commissioner has therefore considered whether the public authority was entitled to rely on section 14(1) to refuse to provide the name of the investigator's professional membership body at the time the request was made.

### **Reasons for decision**

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15. Section 14 of FOIA states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

16. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
17. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority.
18. The ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
19. Section 14(1) is designed to protect public authorities by allowing it to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
20. The Upper Tribunal considered the issue of vexatious requests in *Information Commissioner v Devon CC & Dransfield* [2012] UKUT 440 (AAC)1. It commented that 'vexatious' could be defined as the 'manifestly unjustified, inappropriate or improper use of a formal procedure.' The Dransfield case considered four broad issues: the value

or serious purpose of the request, the burden imposed by the request (on the public authority), the motive of the requester, and harassment or distress of and to staff.

21. The Upper Tribunal cautioned that these considerations were not meant to be exhaustive. It emphasised that:

“...all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA”

### **The complainant's position**

22. The complainant said that they do not consider the request to be vexatious because they were dissatisfied with the outcome of the investigation, wanted to ensure that it had been conducted by an individual who was registered with a professional membership body, and make a complaint to it. Being denied the information 'fuelled' their concerns about the validity of the investigation.
23. The complainant said that the public authority states under point 5 (5.1 – 5.4) in the 'terms and conditions' section of its website that, all therapists are members of professional bodies, details of their professional membership should be available on the therapist's profile on its website, and checking this information is the responsibility of the public authority.
24. The complainant said that the 'BABCP Standards of Conduct, Performance and Ethics' states that members "must tell people who use your service how they can complain about you and your practice to BABCP and any other regulatory bodies you are accountable to."

### **The public authority's position**

Value and serious purpose

25. The public authority has not offered any arguments about the value and serious purpose of the request at the time the request was made.

Burden imposed by the request

26. The public authority said that email communication from the complainant in relation to their complaint about the therapist/assessment has been 'excessive over the past year' and to date a 'significant amount of time' has been dedicated to support them, including resolving the initial complaint in full.

27. The public authority said that the complainant has raised three complaints with it about the therapist/assessment. It said that between 6 and 10 July 2023 it received six emails from the complainant. Over these emails the complainant said that they were dissatisfied with the outcome of the complaint/asked how to escalate the matter, asked for rectifications to be made to the notes, and requested the name of the therapist's and the complaint investigator's professional membership bodies.
28. The public authority said that no new information had been received about the therapist/assessment that would have changed the outcome of the original complaint, and that the objective of the assessment had been successfully served. The public authority advised the complainant that their complaints were not upheld, and any further rectification requests relating to the notes and challenge to the complaint outcome would need to be addressed by the Trust.
29. On 14 December 2023, the Chief Executive Officer of the public authority wrote to the complainant (received on 15 December 2023) advising them that it will not be engaging with them any further and asked them to refrain from contacting it. In March 2024, the public authority 'blocked' inbound communications from the complainant.
30. The public authority said that any further communication and engagement with the complainant would likely result in further complaints that would only serve to 'perpetuate' and not resolve their feelings. This would increase administrative burden on it, the NHS and other public authorities.
31. The public authority said that there is a 'risk of burden to external public authorities' because the evidence suggests that the complainant would be likely to make repeated and duplicate complaints to them.

#### Motive of the requester

32. The public authority has not offered any arguments about the motive of the requester at the time the request was made.

#### Harassment and distress

33. The public authority offered information about the complainant and healthcare professionals that has not been reproduced in this decision notice. In this case, it said that the complainant has made three complaints to it, two complaints to the Trust, and one complaint about the therapist/assessment and one about the investigator to the BABCP . It said that the complainant has also said that they intend to pursue a complaint with the Parliamentary and Health Service Ombudsman.

34. The public authority said that staff have reported feelings of 'distress and harassment' because of "persistent and relentless" contact from the complainant that was "at times hostile and aggressive in tone" and that this created a "significant impact to service delivery, and by effect to the other services users ... the health and wellbeing of all other service users was considered paramount in this decision". This includes, the therapist, their clinical supervisor, two members of the customer service team and the investigator.
35. The public authority said that it cannot have any further direct correspondence with the complainant because this would likely result in further complaints.

### **The Commissioner's position**

#### Value and serious purpose

36. The Commissioner has considered the value and serious purpose of the request at the time the request was made.
37. The Commissioner accepts that the name of an investigator's professional membership body would provide reassurance about their suitability to investigate a complaint about a therapist/assessment and add weight towards the validity of the investigation. He also notes that the BABCP's website invites individuals who have concerns about its members to make a complaint.
38. It is therefore the Commissioner's view that there is a clear objective public interest in the withheld information. Aside from providing reassurance that a complaint has been appropriately investigated it also assists an individual with raising a complaint about the investigator to the relevant body should they wish.

#### Burden imposed by the request

39. The Commissioner has considered the burden imposed by the request on the public authority at the time the request was made.
40. The Commissioner notes the public authority's view that email communication from the complainant has been 'excessive over the past year', and that any further engagement with the complainant would only serve to 'perpetuate' and not resolve their feelings. He also notes that it has not offered any estimate of the time it has spent specifically dealing with these communications up to the date of the request.
41. The Commissioner has reviewed the evidence provided by the public authority. He notes the communication includes; emails from the complainant seeking clarification about the assessment and next steps, rectification requests relating to the notes, and a complaint about the

therapist/assessment (in accordance with its complaints procedure). He also notes that in its response to the complaint (dated 6 July 2023), the public authority advises the complainant to contact it should they have any questions about the outcome. He further notes that the request for the investigator's details was made following the conclusion of the investigation.

42. The Commissioner notes that there is one reference made to the complainant contacting the public authority's admin team "numerous times" to speak with the therapist (after being advised the wellbeing service will be in contact with them). However, they then emailed the therapist requesting a copy of the assessment.
43. The Commissioner considers the complainant's contact with the public authority reasonable in the circumstances of an individual who underwent an assessment with a therapist, was dissatisfied with the therapist/assessment, made a complaint, and had concerns about the outcome of the subsequent investigation.
44. The Commissioner also notes that the BABCP's website invites individuals to make a complaint to it where they have a concern about one of its members. In such circumstances the Commissioner considers it would be likely the public authority would only be required to communicate directly with the BABCP about any enquiries they may have and not directly with the complainant.
45. The Commissioner is therefore not convinced that processing the request would impose an unreasonable burden on the public authority that outweighs the value and serious purpose of the request at the time it was made.

#### Motive of the requester

46. The Commissioner has considered the motive of the requester at the time the request was made.
47. The Commissioner notes that the complainant made their complaint to the public authority on 18 June 2023. The public authority investigated the matter and responded on 6 July 2023. On 10 July 2023 the complainant requested the name of the investigator's professional membership body.
48. The Commissioner notes that the investigator's professional membership body's online complaint's process, and its 'Standards of Conduct, Performance and Ethics' states that information about professional membership registration should be available to a complainant.
49. The Commissioner therefore accepts that there was a legitimate motive for the complainant's request at the time it was made.

## Harassment and distress

50. The Commissioner has also considered any harassment and distress by the complainant at the time the request was made.
51. The public authority argued that “persistent and relentless” contact from the complainant had caused distress. The Commissioner has reviewed the evidence provided and notes the communication from the complainant up to the date of the request comprises; emails from the complainant seeking clarification about the assessment and next steps, rectification requests relating to the notes, a complaint about the therapist/assessment (in accordance with its complaints procedure). He also notes that the request was made following the conclusion of the investigation.
52. The Commissioner notes that there is one reference made to the complainant contacting the public authority’s administration team “numerous times” to speak with the therapist (after being advised the wellbeing service will be in contact with them). However, they then emailed the therapist requesting a copy of the assessment. He also notes that in its response to the complaint (dated 6 July 2023), the public authority advises the complainant to contact it should they have any questions about the outcome. He also notes that no evidence has been presented demonstrating the complainant using a “hostile” and “aggressive” tone.
53. The Commissioner also notes that should the investigator’s professional membership body contact the public authority with enquiries about a complaint it has received, the public authority would not be required to communicate directly with the complainant in relation to those matters.
54. The Commissioner considers the complainant’s contact with the public authority reasonable in the circumstances of an individual who underwent an assessment with a therapist, was dissatisfied with the therapist/assessment, made a complaint, and was dissatisfied with the outcome of the subsequent investigation.
55. Given all the above the Commissioner considers that the value and purpose in the requested information outweighs the burden of complying with the request. The public authority has not adequately demonstrated that complying with the request would be a significant burden at the time of the request. Therefore, he is not satisfied that it was entitled to refuse the request on the basis of section 14(1) of FOIA.



## **Right of appeal**

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56. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

57. 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.
58. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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