

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

### **Decision notice**

**Date:** 19 August 2024

**Public Authority:** Dr Philip Rowland, Dr Peter Dunne, Dr Alexis Tanner, Dr Julian Miles, Dr Alice Cook

**Address:** Partners of Peverell Park Surgery  
The Stables  
162 Outland Road  
Plymouth  
PL2 3PX

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

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1. The complainant has requested statistical information about a number of health conditions and diagnoses. Peverell Park Surgery ('the Surgery') provided some of the requested information but advised that no further information within scope of the request was held.
2. The Commissioner's decision is that, on the balance of probabilities, the Surgery holds no further information within scope of the request.
3. The Commissioner does not require further steps.

#### **Nomenclature**

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4. The Commissioner has identified that the public authority for the purpose of FOIA in this case is the five partner GPs, as listed in the header of this Decision Notice, rather than Peverell Park Surgery in its entirety. For the purpose of the administration of this Decision Notice, the Commissioner will continue to refer to the public authority as the Surgery, rather than listing the partner GPs each time.

## Request and response

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5. On 17 February 2024, the complainant wrote to the Surgery and requested information in the following terms:

"Please provide the surgery's annual Cancer statistics from 2014 to 2023

To include the number of Patients that have suffered from gallbladder, liver, pancreas ,bile duct, biliary system cancers.

Please provide the surgery's annual statistics from 2014 to 2023 for

Asthma

COPD

Chest infections

RSV

Still births

Stroke

Heart disease +conditions

Covid 19

The number of registered patients at the surgery for each year from 2014 to 2023

The surgery's relevant on line links to the data I have requested."

6. The Surgery responded on 12 March 2024. It stated that it was relying on section 40 of FOIA (personal information) to withhold the requested information.
7. Following contact from the Commissioner, the Surgery issued a new response on 7 May 2024. It provided a spreadsheet with some of the requested information and advised that the local Integrated Care Board would hold more detailed information concerning cancer statistics.
8. The Surgery wrote to the complainant on 17 July 2024 to provide its internal review response. It stated that it had reviewed its records and concluded that it had provided all of the information it held within scope of the request.

## Scope of the case

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9. The complainant contacted the Commissioner on 5 April 2024 to complain about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to determine whether further information is held within scope of the request.

## Reasons for decision

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### Section 1 of FOIA – general right of access to information

11. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled –
  - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.
12. FOIA provides a right of access to recorded information which is held by a public authority at the time when it receives the request; this does not extend to the right to ask questions, or for explanations, clarification of information or to debate the contents of information, unless the answer to those questions, requests for explanation or clarification is already held by the public authority in recorded form. Essentially, public authorities are not obliged to 'create' new recorded information in order to comply with a request.
13. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
14. In their request for an internal review the complainant queried the accuracy of the registered patient figures provided, and whether the information provided included figures from another practice rather than just the Surgery's figures as requested. They also asked for the statistics for bile duct cancers that were not included in the Surgery's response.
15. In its internal review response, the Surgery explained that the information it had provided was all that it held and that it was correct. It

explained that the information provided in its response did include figures from its branch surgery. It explained that it was unable to separate these because the branch surgery shares the same clinical code as the Surgery and it is not recognised within the clinical system as being a separate organisation.

16. In providing its submission to the Commissioner, the Surgery explained that it had carried out searches available on its Ardens software system to try and provide more information to the complainant. It explained that the Ardens system has preset searches which are usually requested by NHS England and public health bodies. There is no option for individual practices to set up bespoke searches on the system, however the Surgery explained that it had called in an expert to try to assist in performing searches for the date ranges requested.
17. The Surgery stated that it found that the information being requested was not available within its system. It explained that this is mainly due to the fact its governing bodies don't ask it to code<sup>1</sup> the clinical data being requested. For example, the Surgery does not have a requirement to code all cancers because cancer is diagnosed by secondary care, and the Surgery is only informed of a cancer diagnosis if treatment by a GP is involved. Similarly, the Surgery explained that it also does not code still births as this is not a requirement in general practice.
18. The Surgery added that governing bodies can get this type of data from secondary care or Public Health England so do not require GP practices to code such data. As secondary care data is not inputted into its system, the Surgery is not able to search secondary care data for diagnosis clinical codes.
19. The Surgery further explained that it is often not informed by secondary care about all chest infections within a hospital setting, Covid infections, or still births. It explained that it is also not always told of cancer diagnosis by private health providers or secondary care, adding that sometimes the first it hears of a diagnosis is when a patient tells their GP, often after they have been cured or when they are entering end of life care. This is because the hospital controls all of the patient's cancer care and the Surgery often has no involvement.

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<sup>1</sup> Clinical coding is the system by which unique and precise 'codes' are used to record diagnoses or various aspects of patient care.

20. The Surgery considers that there is an impression that general practice and secondary care work together and have shared records but it states that this is not the case and hospital records remain at the hospital.
21. The Surgery explained that Public Health England and NHS England would have the requested information as they have access to all health statistics from all health providers.
22. Given the limitations on the search function on the Ardens system and the inconsistency in information sharing between secondary care and primary care providers in terms of clinical diagnoses, the Commissioner accepts the Surgery's explanations on why it is unable to satisfy the complainant's request for information.
23. The Commissioner therefore concludes that, on the balance of probabilities, the Surgery does not hold further recorded information within the scope of the request.

### **Procedural matters**

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24. The Commissioner finds that the Surgery breached section 10(1) of FOIA by failing to provide a proper response within 20 working days.

### **Other matters**

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25. The Commissioner notes that the Surgery failed to carry out an internal review within 40 working days. The Section 45 Code of Practice advises all public authorities to carry out internal reviews in a timely manner and within 20 working days. A total of 40 working days is permitted in particularly complex cases only.
26. The Surgery is reminded of the requirements of the Code and of the importance of carrying out internal reviews in a timely manner and in accordance with the timeframes specified in the Code. The Commissioner has recorded this as part of his routine monitoring of public authorities.

## Right of appeal

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27. 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)

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

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