

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 September 2024

Public Authority: Drs Wright, Gill and Perry
(GP Partners of Buxted Medical Practice)

Address: Framfield Road
Buxted
East Sussex
TN22 5FD

Decision (including any steps ordered)

1. The complainant has requested information about the process for handling requests for medical information. The above public authority ("the public authority") provided some information, but not what the complainant asked for.
2. The Commissioner's decision is that the public authority has not complied with its obligations under section 1(1) of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response, to the request, in accordance with its obligations under FOIA.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 27 March 2024, the complainant wrote to the public authority and requested information in the following terms:

“Please supply me with a copy of your written instruction(s) to staff for responding to requests made in writing to medical staff, including those received by hand, by post, by e-mail, or other messaging system.”
6. After having been chased, the public authority responded on 2 May 2024. It appeared to have confused the request with a subject access request and provided the complainant with his own medical records.
7. The complainant responded the same day. He pointed out that what the public authority had provided was not what he had asked for. He asked for his original request to be fulfilled.
8. The public authority replied the following day. It apologised for the error and stated that it was treating his correspondence as a fresh request for information to which it would “respond in full” within 20 working days.
9. Despite being chased on several occasions and despite the Commissioner notifying it that he was commencing an investigation, the public authority had not issued a further response at the date of this notice.

Scope of the case

10. At the outset of his investigation, the Commissioner noted that he had received no further communication from the public authority. He asked the complainant whether or not he (the complainant) had received any further information. The complainant confirmed that no further information had been provided.
11. For the reasons given below, the Commissioner is not satisfied that the public authority has dealt with the request in accordance with FOIA. At present, he is unclear whether the public authority even holds any information relevant to the request, let alone whether that information (if it exists) ought to have been provided. Until such facts are established, it is not possible for the Commissioner to move forward.
12. The public authority has had ample opportunity to set out its position but has failed to do so.
13. The Commissioner therefore considers that a decision notice is necessary in order to require the public authority to set out its position.

Reasons for decision

14. Section 1(1) of FOIA requires a public authority to tell a requester if it holds the information they have requested and, if it does, to provide that information – unless an exemption applies.
15. The public authority has provided the complainant with some information which does not fall within the scope of the request.
16. The public authority has not provided any information which does fall within the scope of his request – or even confirmed whether any such information is held. Nor has it cited any exemptions from the duty to disclose the information, to confirm that the information is held or to comply with the request.
17. The public authority has therefore failed to comply with section 1(1) of FOIA
18. The public authority must now go back to the beginning and issue a fresh response to the request. It should start by confirming or denying whether any of the requested information is held (unless there is an exemption allowing it not to do so) and then, if information is held, either disclose that information or cite an exemption.
19. If and to the extent that the public authority considers an exemption applies, it must issue a decision notice that complies with section 17 of FOIA.

Other matters

20. The [FOIA Code of Practice](#) encourages public authorities to offer internal reviews of FOIA responses and to complete reviews within 40 working days.
21. The Code also advises public authorities to treat correspondence challenging the outcome or the process of the initial response as being a request for a review of the way that response was handled.
22. The public authority did not offer an internal review in its response, nor did it indicate that it did not have such a process, nor did it complete one within 40 working days. The Commissioner considers this to be poor practice.

Right of appeal

23. 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

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

24. 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.
25. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF