

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 August 2015

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 meeting minutes from Dicconson Group Practice ('the Practice'). The Practice initially refused to comply with the request saying that it was vexatious under section 14(1) of the FOIA. During the course of the Commissioner's investigation, the Practice released the information.
2. The Commissioner's decision is that the Practice breached section 1 (right of access), section 10 (time for compliance) and section 17 (refusal of request).
3. The Practice has now provided the requested information to the complainant and the Commissioner does not require the Practice to take any further 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. The complainant submitted the following request to the Practice through the 'Message' page on its website (consequently it is not dated):

"Please inform me of the fee for a copy of the minutes as listed in your publication scheme-relevant extract copied below.

Will you inform me of the fee for each individual year separately please inclusive of postage and packing;

2009 - 2010

2010 - 2011

2011 - 2102

2013 - 2014

2014 - 2015

2015 - to present."

6. The Practice responded on 24 February. It said that the request was unreasonable and that it would not comply with this or similar requests in the future.
7. Following contact with the Commissioner's Office, on 13 April the Practice confirmed to the complainant that it considered the complainant's request to be vexatious and it refused to comply with it under section 14 of the FOIA. The Practice said it does not have an internal review process.
8. The Practice then wrote to the complainant on 4 June, during the Commissioner's investigation. The Practice said it had reconsidered its application of section 14 to his request and was now prepared to release the requested information to him, subject to a nominal fee to cover stationary, postage and packing.
9. On 7 July, the Practice confirmed to the Commissioner that it had released the requested information to the complainant without charging a fee and the Commissioner invited the complainant to withdraw his complaint. The complainant preferred to progress his complaint to a decision notice.

Scope of the case

10. The complainant initially contacted the Commissioner on 17 March 2015 to complain about the way this request for information, and a previous request, had been handled. The complainant was not satisfied with the Practice's application of section 14 to his request and he subsequently

confirmed that he is also not satisfied with the time the Practice took to release the information.

11. The Commissioner has considered whether the Practice met its obligations under section 1, section 10 and section 17.

Reasons for decision

Section 1 and section 10

12. Section 1(1) of the FOIA says that when a public authority receives a request, it must confirm or deny whether it holds the information, and if it does, the information must be communicated to the requester.
13. Section 10(1) of the Act says that public authorities must comply with section 1(1) within 20 working days of receiving the request.
14. In this case, the complainant has not been able to provide the Commissioner with the date on which he submitted his request. He has however commented on the Practice's "five month delay" in responding to the request. The Commissioner notes that the complainant first complained to him on 17 March.
15. The Practice released information to the complainant between 4 June and 7 July. In the circumstances, the Commissioner accepts that the Practice did not meet its obligations under section 1 and section 10 because it did not confirm it held relevant information or release it to the complainant within 20 working days of his request.

Section 17

16. Section 17(5) of the FOIA says that if a public authority is relying on a claim that section 12 or 14 applies to a request for information it must give the applicant a notice stating that fact within 20 working days of receiving the request.
17. Section 17(6) says that 17(5) does not apply in cases where a public authority is relying on a claim that section 14 applies, has given the applicant a notice in relation to a previous request for information saying that it is relying on such a claim and it would be unreasonable in the circumstances for the authority to serve a further notice.
18. In this case, the Commissioner is not aware that the Practice has previously given the complainant a section 14 refusal notice. When it wrote to the complainant on 24 February, the Practice should therefore have specifically stated that it was refusing to comply with his request

as it considered it to be vexatious under section 14(1) of the FOIA. In its correspondence, the Practice only said the request was unreasonable and that it would not comply with this request or future requests. The Commissioner notes that the Practice met its obligations under section 17 in its correspondence to the complainant dated 13 April, and subsequently withdrew its reliance on section 14.

Other matters

19. The complainant has told the Commissioner that he is not satisfied with the way the Practice has handled this and a previous request for information that he submitted to it. He considers it has acted unfairly, wasted time and is not confident the Practice would correctly handle a request from him in the future.
20. The Commissioner notes that the complainant has submitted one previous FOIA complaint to him about the Practice. This concerned the Practice's publication scheme and was resolved informally. The complainant's complaints are the only two FOIA complaints that have been submitted to him concerning Dicconson Group Practice.
21. The Commissioner is not convinced that there is sufficient evidence of systemic problems with how Dicconson Group Practice handles requests for information that it receives. Sometimes problems arise because the authority does not receive many FOIA requests and consequently does not have a lot of experience dealing with them. In these circumstances, authorities are likely to find the guidance on the Commissioner's website helpful: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>. The Commissioner would strongly encourage the Practice to familiarise itself with this guidance to enable it to respond correctly to any future FOIA requests.

Right of appeal

22. 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

23. 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.
24. 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