

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 July 2017

Public Authority: Park End Surgery
Address: Bridgewater House
7 Printers Avenue
Watford
WD18 7QR

Decision (including any steps ordered)

1. The complainant has requested information relating to leave taken by a particular GP.
2. The Commissioner's decision is that Park End Surgery (the surgery) has correctly applied section 14(2) (repeated request) of the FOIA to the request.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.
4. The Commissioner notes that a medical practice itself is not for the purposes of FOIA a public authority. Rather, each GP who provides primary medical services is a public authority themselves and has a duty to reply to a request in accordance with section 1 of FOIA. However, the Commissioner acknowledges that when an applicant makes a freedom of information request to a medical practice it is reasonable to expect that the practice will act as the single point of contact and process the request on the doctors' behalf. For the purposes of this decision notice all references to the medical practice should be regarded as referring to the public authority.

Request and response

5. During April and May 2016, the complainant wrote to the surgery and requested information in the following terms, although not explicitly under FOIA:

"Please tell me the dates [redacted] was away for in Dec '14 and when was his apply request to take annual leave put to [redacted] or to the G.P surgery clinic?"

Was the replacement GP request made informally or formally, what procedures were followed if it was formal and if it was informal was it between [redacted] and [redacted]?"

When was his apply request to take annual leave put to [redacted] or to the G.P surgery clinic?"

Was the replacement GP request made informally or formally, what procedures were followed if it was formal and if it was informal was it between [redacted] and [redacted]?"

6. On 25 May 2016 the surgery responded. It stated that the information was personal data and therefore refused to provide it.
7. On 28 April 2017 the complainant requested information of the following description:

This is a Freedom of Information request.

1. *"Please tell me the dates [redacted] was away for in December 2014 and when was his apply request to take annual leave put to [redacted] or to the G.P surgery clinic?"*
 2. *Was the replacement GP request made informally or formally, what procedures were followed if it was formal and if it was informal was it between [redacted] and [redacted]?"*
 3. *When was his apply request to take annual leave put to [redacted] or to the G.P surgery clinic?"*
 4. *Was the replacement GP request made informally or formally, what procedures were followed if it was formal and if it was informal was it between [redacted] and [redacted]?"*
8. On 5 May 2017 the complainant requested an internal review of the surgery's response to the requests made in 2016.
 9. On 12 May 2017 the surgery responded to the request of 28 April 2017. It refused to provide the requested information citing section 14(2) (repeated request) of the FOIA as its basis for doing so. It did not offer an internal review.
 10. Given the overlapping nature of the correspondence and the time elapsed since the original request in 2016, the Commissioner is of the

view that it would not be reasonable for the surgery to offer an internal review.

Scope of the case

11. The complainant contacted the Commissioner on 2 May 2017 to complain about the way his request for information had been handled.
12. The Commissioner considers the scope of this case to be to determine if the surgery has correctly applied section 14(2) of the FOIA to the request and if the surgery needs to respond.

Reasons for decision

13. Section 14(2) of the Act states that:

“Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request for that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request”.

14. Requests can be refused on the basis of section 14(2) if:
 - it is made by the same person as a previous request;
 - it is identical or substantially similar to the previous request; and
 - no reasonable interval has elapsed since the previous request.
15. The Commissioner has therefore considered each of these aspects in turn.

Are the requests made by the same person?

16. The Commissioner notes that the request originates from the same email address and the complainant is cited as ‘representative. Therefore the Commissioner considers the request has been made by the same person.

Is the request identical or substantially similar to the previous requests?

17. The Commissioner considers that a request will be substantially similar to a previous request if a public authority would need to disclose substantially similar information to respond to the request, even if the wording of the request is not identical.

18. In this case, it is clear that the wording of the previous request is the same.

Has a reasonable interval elapsed since the previous request?

19. What constitutes a reasonable interval will depend on the circumstances of the case including how likely the information is to change, how often records are updated and any advice previously given to the requester.
20. In this case although 12 months had elapsed the information itself had not changed. The first request had been refused as the surgery considered the information to be personal data. It is therefore accepted that this information would not have changed no matter how much time had elapsed.

Has the surgery previously complied with a request for information?

21. The Commissioner considers that the term 'previously complied with a request for information' refers to whether an authority has responded to the previous requests by either providing information or by issuing a refusal notice. In this case the surgery had responded to a previous request on 25 May 2016.
22. The Commissioner therefore considers that in this case the surgery has previously complied with the previous request despite the fact that the information was not provided in response to that request.
23. Taking the above into consideration, the Commissioner considers that the surgery has correctly applied the exemption for repeated requests at section 14(2) of the FOIA.

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
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