

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 March 2018

Public Authority: One Medical Group
Address: The Business Centre
Bank Top Farm
Black Hill Road
Leeds
West Yorkshire, LS21 1PY

Decision (including any steps ordered)

1. The complainant has requested information about complaints. The One Medical Group (the Group) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so.
2. The Commissioner's decision is that the Group is not obliged to comply with the request under section 12(1) and is satisfied that the Group met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 21 April 2017 the complainant made a 9-part request for information under the FOIA:

'Please can you provide me with the following information under the Freedom Of Information Act 2000

1. *The number of complaints received by OneMedical Group over the last 5 years by quarter.*
2. *An analysis of the above data which confirms which OneMedical Group services or practices the complaints related to (eg. Windermere GP, etc)*

3. *An analysis of the above data which confirms how many complaints were dealt within 30 days, within 60 days, within 90 days etc*
4. *An analysis of the above data which confirms the gender and age profile of the complainants.*
5. *An analysis of the above data which confirms how many of the complaints made were found in favour of the complainant in full (ie. successful), how many of the complaints made were found in favour of the complainant in part, and how many were not upheld.*
6. *An analysis of the above data which confirms how many of the complaints were subsequently appealed.*
7. *An analysis of the above data which confirms how many of the complaints that were subsequently appealed were successful.*
8. *An analysis of the above data which confirms how many of the complaints were subsequently referred to NHS England or other statutory body.*
9. *An analysis of the above data which confirms how many employees were subsequently subjected to disciplinary action, how many resigned, how many were dismissed and how many were referred to the police for criminal prosecution.*

I would be grateful if you could send me your full reply within the usual 20 days' time limit.'

4. On 19 May 2017 the Group responded. It refused to provide the requested information citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450.
5. The Group suggested it may be able to comply with a new request for a narrower category of information e.g. providing the data for Windermere and Bowness Medical Practice only would keep the cost within the £450 cost limit.
6. On 29 June 2017 the complainant requested an internal review and copied in the ICO.
7. After the intervention of the Commissioner on 25 September 2017, the Group provided the outcome of the internal review upholding its original position.

Scope of the case

8. On 25 January 2018, the complainant contacted the Information Commissioner to complain about the way the request for information had been handled.
9. The Commissioner's investigation has focussed on whether the Group correctly applied section 12 to the request. She has also considered whether the Group met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

10. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
11. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the Group.
12. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
13. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

14. As is the practice in a case such as this, the Commissioner asked the Group to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
15. In its submission to the Commissioner the Group explained that it is an independent provider of primary care services across the UK, with a small central team providing support to 8 GP practices and 4 urgent care services – a total of 11 sites as one GP practice and one urgent care service is on the same site.
16. Referring to the first question in the request (Q1 *The number of complaints received by OneMedical Group over the last 5 years by quarter*) the Group confirmed that last year's complaints data is held and maintained on an individual site basis. Previous years' complaints may be archived electronically or in hard copy. Complaints dealt with at a group wide level are kept in hardcopy form at the Central Support Office in Leeds. Where services have departed from the Group over the last 5 years, the Group is unclear where the complaints data is held.
17. The Group estimated that it would take a minimum of 15 minutes at each site to identify the location of all complaints active and archived plus a further 30 minutes per site to pursue the complaints from services that have departed. Occasionally complaints are escalated to an organisation's insurer and complaints will need to be cross referenced to check for duplicates. The Group calculated 5.25 hours total work across the sites to gather all complaints. In addition the Group estimated that it would need approximately 1.5 hours to retrieve the information and 1 hour to collate the data.
18. The Group stated that the work required to answer Q2 of the request would be included in Q1.
19. In summary the estimated total time to locate, retrieve and extract the data for Q1 and Q2 of the request is 7.75 hours.
20. To determine if information is held for Q3 (*An analysis which confirms how many complaints were dealt within 30 days, within 60 days, within 90 days etc*) the Group explained that their complaints trackers document the date of complaint, initial response date and the date at which the complaint was closed. For 2017/18 this would take around 3 hours plus cross referencing with complaints reported to the insurer (15-30 minutes). For the previous years, each archived complaint would need to be reviewed individually. (15 minutes each):

'Potentially, based on the complaints received by 17/18 for a single service (Derby Urgent Care Centre FY17/18, 25 complaints) this could require 6.25 hours per site per year of complaints.'

21. In summary the estimated total time to locate, retrieve and extract the data for Q3 of the request is a minimum of 3.25 hours for 2017/18 plus for one site a potential 6.25 hours for the previous 4 years is 25 hours.
22. The Group stated that the information is not currently recorded for Q4 or Q8 or Q9. (*gender and age profiles: complaints subsequently referred to NHS England; employees subsequently subjected to disciplinary action*). Collated reports of complaints are anonymised. To answer Qs 4, 8 and 9 would require an estimated 15 minutes per complaint file. Based on 25 complaints per service per year (see example from Derby in paragraph 20 above), this could require 6.25 hours per site per year.
23. The Group stated that the information is not currently collated for Q5, Q6 and Q7: *'all complaints are dealt with in line with NHS England complaint guidance. The focus on complaints is regarding understanding the complainants concerns and share learning and are not classed as successful or unsuccessful. As such data for requests 5-7 does not exist'*.
24. In their submissions, the Group estimated that the total minimum time to undertake the work as 56 hours. However, the Commissioner notes that potentially the figure could be much higher as some of the estimates need to be multiplied by each site (11) and each archived year (4).
25. It is not clear to the Commissioner that the figure of 25 complaints from the example at Derby is truly representative of the other practices. If it is a large city practice it might attract more complaints than a smaller rural one. Nevertheless the 25 hours for the one site for the one part of the request would exceed the cost limit and that answering all parts of the request for which information is held would greatly exceed the limit. The public authority's estimate of a total minimum amount of 56 hrs seems to be conservative.
26. Given the specific information requested and the number of sites involved, the Commissioner is satisfied that although some information may be held the Commissioner accepts that the Group would take more than the 18 hour limit to respond to the request. She is therefore satisfied that the Group is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

27. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request.

Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).

28. The Commissioner notes that the Group advised the complainant that the request was too broad and in an effort to provide assistance, suggested that the complainant limit his request to one Practice: *'providing the data for Windermere and Bowness Medical Practice only would keep the cost within the £450 cost limit and we could provide such information if so required.'*
29. Therefore, the Commissioner is satisfied that the Group complied with section 16.

¹ <http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-section45-code-ofpractice.pdf>

Right of appeal

30. If 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

31. 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.
32. 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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