

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 March 2023

Public Authority: Dr Yaqub Hussain and partners
Address: Mount Pleasant Medical Centre
69 Purlwell Lane
Mount Pleasant
Batley
WF17 7PF

Decision (including any steps ordered)

1. The complainant requested information about staff concerns and policies from Mount Pleasant Medical Centre ("the Medical Centre"). By the date of this notice the Medical Centre had not issued a substantive response to this request.
2. The Commissioner's decision is that the Medical Centre has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Medical Centre to take the following step to ensure compliance with the legislation.
 - the Medical Centre must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Medical Centre must take this step within 35 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 FOIA and may be dealt with as a contempt of court.
5. The Commissioner notes that a medical centre 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 Centre should be regarded as referring to the public authority.

Request and response

6. On 4 October 2022, the complainant wrote to the Medical Centre and requested information in the following terms:

"The practice encourages its staff to be open and honest about safety, and supports them to report concerns and incidents, therefore, please provide :

1. The policy(ies) issued to staff relating to these.
2. Number of times staff have raised concerns annually since 2016

It should be easy for staff to make a complaint or raise a concern. If they do, the complaint is taken seriously and the practice responds quickly and makes any necessary improvements, therefore, please prove :

1. The policy issued to staff relating to this.
2. Number of times staff have raised complaints annually since 2016"

7. To date, a substantive response has not been issued.

Scope of the case

8. The complainant contacted the Commissioner on 11 December 2022 to complain about the Medical Centre's failure to respond to their request.
9. The Commissioner has considered whether the Medical Centre has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

10. Section 1(1) of FOIA states 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.”

11. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.

12. On 20 December 2022 the Commissioner wrote to the Medical Centre, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.

13. On 30 December 2022, the Medical Centre advised the Commissioner it had responded to the requester.

14. However, the complainant has confirmed they still have not received the response.

15. The Commissioner requested a copy of the response from the Medical Centre. Despite this intervention the Medical Centre has failed to respond to the complainant or provide any evidence it had done so.

16. From the evidence provided to the Commissioner in this case, it is clear that the Medical Centre did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Medical Centre has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

17. 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

18. 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.
19. 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

Catherine Fletcher
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF