

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 May 2023

Public Authority: Dr Yaqub Hussain, Dr Mohammed Javed Khan, Dr Khalid Naeem, Dr Zubair Dalal, Dr Mazhar Khurshid, Dr Anwar Bham and Dr Feryal Siddique

Address: Mount Pleasant Medical Centre
69 Purlwell Lane
Batley
West Yorkshire
WF17 7PF

Decision (including any steps ordered)

1. The complainant requested information about staffing at 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.

Request and response

5. On 7 March 2023, the complainant wrote to the Medical Centre and requested information in the following terms:

"Safe staffing plays an important role in the delivery of safe and effective healthcare. Service users are put at potential risk when DBS checks are not carried out and satisfactory references are not recorded, therefore, please provide the following information :

1) Does the Medical Centre carry out criminal checks of all non-clinical staff ?

2) Does the Medical Centre carry out criminal checks via the Disclosure and Barring Service (DBS) and are references asked for Practice nurses ?

3) Does the Medical Centre carry out criminal checks on phlebotomists or members of reception staff ?

4) Does the Medical Centre have a system in place to monitor the professional registration status of the practice nurses ?

5) Does the Medical Centre check those with chaperone duties who require a DBS check due to the nature of these duties and the level of contact with patients ?

6) Staff who supervise a baby or child while their parent or carer is having an appointment, do these staff have a DBS check ?

7) Does the Medical Centre request the ID photo at the time of recruitment or at the time of SMARTcard request ?

8) Is a copy of the SMARTcard kept in the employee's file as proof of ID ?"

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

Reasons for decision

7. 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."

8. 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".
9. On 27 April 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.
10. Despite this intervention the Medical Centre has failed to respond to the complainant.
11. 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

12. 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

13. 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.
14. 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

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF