

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 March 2017

Public Authority: The Practice Group

Address: Rose House
Bell Lane Office Village
Bell Lane, Little Chalfont
Amersham
Buckinghamshire HP6 6FA

Decision (including any steps ordered)

1. The complainant has requested information about patients with coeliac disease. The Practice Group refused to comply with the request under section 12(1) of the FOIA as to do so would exceed the appropriate cost limit.
2. The Commissioner's decision is that the Practice Group was correct to apply section 12(1) to the request. However, the Commissioner has also decided that the Practice Group breached section 16(1) as it did not offer the complainant appropriate advice and assistance with a view to clarifying and refining his request so that it could be managed within the cost limit.
3. The complainant has confirmed that he needed the information at the time he requested it, and has no use for it at this point. The Commissioner therefore does not require the Practice Group take any steps.

Request and response

4. As one organisation in a bulk email to a number of organisations, on 24 June 2016, the complainant wrote to the Practice Group and requested information in the following terms:

"...This request is to obtain data that enables the creation of a profile for Mid-Essex CCG patients diagnosed with Coeliac Disease and who have been issued with prescriptions for Gluten Free Food...

...Would you please supply the following data by year (ie: 2013, 2014, 2015 for trend analysis):

1. Total number of patients with a diagnosis of Coeliac Disease, by age group (ie: 0-18; 18-64; 65+) and

2. Total number of CD patients who have (had) prescriptions (FP10) by age group and gender.

I have attached a file showing data extracted against this request from a surgery that helped me to test the feasibility of the request. I would be grateful if you could present your returns in a similar format. I am happy to receive the information in printed format..."

5. The Practice Group responded on 15 July 2016. It released some general information but said that it was not obliged to comply with the specifics of the request as the cost of doing so would exceed the appropriate limit.
6. Following an internal review the Practice Group wrote to the complainant on 2 August 2016. It maintained its original position but justified its position in more detail. The Practice Group referred to the fact that it operates five surgeries in the Essex area and that this was, in part, why it would exceed the appropriate limit to comply with the request.

Scope of the case

7. The complainant contacted the Commissioner on 8 August 2016 to complain about the way his request for information had been handled.
8. The Commissioner's investigation has focussed on the Practice Group's application of section 12(1) to the request of 24 June 2016, and whether the Practice Group complied with its obligation under section 16(1) to offer advice and assistance.

Reasons for decision

Section 12 – cost/time exceeds the appropriate limit

9. Section 12(1) 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. The estimate must be reasonable in the circumstances of the case.
10. 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 Practice Group. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
 - (a) determine whether it holds the information
 - (b) locate the information, or a document which may contain the information
 - (c) retrieve the information, or a document which may contain the information, and
 - (d) extract the information from a document containing it.
11. 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.
12. In its internal review response to the complainant, the Practice Group stated that it operates five surgeries in the Essex area. It estimated that the £450 limit would be exceeded because:
 - It had not previously been asked to provide data that enables the creation of a profile for Mid Essex CCG patients diagnosed with coeliac disease (CD) who have been issued with prescriptions for gluten free food (GFF). The Practice Group said it would need to verify whether it holds this information and estimated this would take five hours per each of its five surgeries.
 - To find the requested information, or records containing the information, the Practice Group said it would need to search for patients with CD diagnosis, create a report, search for GFF codes, create and run a report and combine both reports. It would have to run a separate search for GFF for patients who may have missed a recording of CD and create a search for any incorrect coding of CD. The Practice Group estimated that this would take four hours per each of its five surgeries.

- The Practice Group said it only ever provides anonymised data. In order to retrieve the information and then ensure it is anonymised, it would need to (a) use the searches created, (b) anonymise and (c) re-run the criteria. It estimated that this would take half an hour per each of its five surgeries.
 - Finally, the Practice Group said that to extract the requested information would be partly dependent on the patient data being correctly coded. It said that there are occasions when a patient with multiple healthcare needs may be miscoded or have some conditions un-coded. In order to provide the requested information, the Practice Group said it would need to search for all other options of coding. It estimated that this would take two hours per each of its five surgeries.
13. The Practice Group said that the above activities represented more than 18 hours work, costing more than £450.
14. The Practice Group also told the complainant that in cases where a request for information relating to a specific condition is made, for example, through Public Health England, it is normally addressed to the relevant CCG who write a program to extract the data for that region. The Practice Group also indicated that, in future, for a request that was submitted to it as part of a CCG-wide area request it would make contact at an earlier stage with the relevant CCG to ask if it could provide data search support for each of the CCG's surgeries.
15. In its submission to the Commissioner, the Practice Group provided further arguments to support its position that complying with the request would exceed the appropriate limit.
- To identify whether it holds the information requested, the Practice Group would have to first create and run data extracts of patients, coeliac patient codes ("CTV3 codes") and medication for the requested multiple year period via SystmOne Strategic Reporting.
 - SQL is the standardised programming language used to manage databases and perform various operations including running analytical queries. Any data identified from point 1 above would then have to be uploaded into a SQL database rather than Excel, as the read code table will initially contain all read codes for all patients in all surgeries, exceeding 50 million rows (Strategic Reporting does not allow data to be filtered at source). Similarly the medication table will be very large, containing all prescriptions for all patients in all surgeries.

- To then locate and retrieve the information, the Practice Group says it would be necessary to create a SQL query to generate a list of candidate CTV3 codes for the purposes of identifying a coeliac diagnosis (and, if applicable, coeliac disease resolved codes). The list of candidate CTV3 codes would then have to be reviewed with clinical professionals to ensure no diagnoses are missed, or included incorrectly. If more than one or two codes exist, it would be necessary to create a SQL table to store these codes for use in the final SQL query.
 - The Practice Group says it would then be necessary to create a SQL query to identify patients who have either a coeliac diagnosis code or a 'condition resolved' code against their name, including the date of the event, by combining the Patient table, the CTV3 table and the coeliac diagnosis / resolved code table. This query will also need to include a derivation of age band from the date of birth provided in the Patient table, measured at the time of the report end date.
 - To then extract the information, the Practice Group says it would have to create a SQL table to store the results of this query, capturing coeliac patients with age band, gender and diagnosis events.
 - If the Practice Group were then required to identify the total number of coeliac patients who have (had) prescriptions (FP10) by age group and gender, it says it would have to do the following:
 - Create a SQL stored query (aka 'a View') to extract all prescriptions issued to the coeliac patients over the last few years.
 - Create a SQL query to identify a list of the uniquely different medications being prescribed from this larger list of all prescriptions.
 - Review this list of unique medications with a clinical professional/ pharmacist to identify those which are likely to be specifically targeting the coeliac condition.
 - Create a table to store the list of medications that should be considered for inclusion in the analysis, and upload the list of selected medications to it.
16. The Practice Group explained that, due to its extremely limited analytical resources, and so as not to cause a drain on its time, energy and finances (which would negatively impact its normal day to day

requirement), it would be necessary to employ a third party SQL specialist to carry out the work identified above.

17. The Practice Group believed the work required would amount to two days' work for a SQL developer (not including testing or re-work where necessary) plus an hour or two of clinical professional input (GP-level) and review. Depending on the experience of the SQL developer, the Practice Group estimates that the cost would be:

2 days SQL developer - £500 to £1000

2 hours GP - £160 - £200

Total cost £660 to £1,200.

18. The Practice Group acknowledged that it had not carried out a sample exercise in order to determine this estimate. It said its estimate was based on the knowledge and experience of a SQL developer who has carried out a similar exercise.
19. The Practice Group also confirmed that the estimate was based on the quickest method of obtaining the information; that is, doing it centrally from a single database rather than relying on the separate records of the five individual surgeries it considered were connected with the request.
20. Based on its internal review response to the complainant and submission to her, it was the Commissioner's preliminary assessment that complying with the request would exceed the appropriate limit under section 12(1). The complainant disputed this when she put this to him. Chief amongst his arguments was the fact that the focus of his request was one surgery in particular – the Tyler's Ride Practice in South Woodham Ferrers – and not all of the five surgeries that the Practice Group operates.
21. The Commissioner has reviewed the complainant's original request and has noted that the Practice Group was only one of a group of organisations to which the complainant submitted his request. In the Commissioner's view, the Practice Group's response, which referred to its five surgeries, was a reasonable response as it is not clear from the request that the complainant was only interested in the South Woodham Ferrers surgery.
22. The complainant has told the Commissioner that his request specified that the requested data concerned patients in the Mid Essex CCG area, one of a number of CCGs in the Essex administrative area. He considers that that The Practice Group failed to interpret that Mid Essex CCG was the focus of his request and therefore that only one surgery was involved.

23. This point is not clear to the Commissioner because, having reviewed Mid Essex CCG's website, it appears to her that there are many GP surgeries that are covered by this CCG. However, in addition the complainant has told the Commissioner that the 'NHS Choices' website he went to indicated that the email address for the South Woodham Ferrers surgery was the Practice Group email address which he therefore used to submit his request. He says it was not clear that the Practice Group email address was a corporate address associated with five surgeries. He therefore considers that the Practice Group was wrong to apply section 12 of the FOIA to his request.
24. The Commissioner appreciates that, in the above circumstances, it was reasonable for the complainant to expect that his request would be understood to refer to the South Woodham Ferrers surgery only. However, similarly, the Commissioner considers that it was not completely unreasonable for the Practice Group to misunderstand the request and assume that it referred to all five surgeries with which it is associated. The Commissioner is prepared to accept that this was a genuine misunderstanding on the part of the Practice Group. With hindsight, it perhaps could have clarified with the complainant at this point whether he wanted information relating to all five of its surgeries.
25. The complainant has also disputed that the Practice Group would need to create an SQL database, would have to anonymise data and that there would be overheads associated with complying with his request (and also that a CCG will write SQL scripts for the Practice Group, as it indicated to him in its review). It is now clear that the Practice Group had misinterpreted his request and had relied on these particular arguments when it had understood the request to be a request for information concerning five surgeries. When it became clear that the complainant was only interested in one surgery, the Practice Group indicated it could manage such a request within the cost limit, and the above factors therefore do not come into play. A refined request is discussed further below.
26. The Commissioner remains satisfied, for the reasons given above, that the Practice Group's interpretation of the request was not unreasonable and that it would have exceeded the cost limit under section 12(1) of the FOIA to comply with the request as the Practice Group erroneously understood it ie as a request relating to five surgeries.

Section 16 – advice and assistance

27. On receipt of its original response in which the Practice Group indicated that complying with his request would exceed the appropriate cost limit,

the complainant emailed the Practice Group to request an internal review. The email opens with the line:

"I assume this is regarding the Tyler's Ride Practice in South Woodham Ferrers?"

28. In the Commissioner's view, the Practice Group had an opportunity here to recognise that the focus of the complainant's interest was this particular surgery. In line with its obligation under section 16(1), the Practice Group could have then offered the complainant advice and assistance to clarify and refine his request with a view to this new request being managed within the time and cost limit. As it was, in the internal review response, the Practice Group referred to the work associated with retrieving the requested information from all five of its surgeries and this led to the current complaint to the Commissioner.
29. In a further submission to the Commissioner, the Practice Group has indicated that it would be able to provide information relating to just the South Woodham Ferrers surgery within the allowed cost.
30. There is a complication however because the South Woodham Ferrers surgery is closing at the end of March due to a reorganisation by the Mid Essex CCG. As a result of this closure, the majority of its patients have been transferred to other surgeries. When a patient transfers, their records (including historical records) will follow them. The Practice Group has told the Commissioner that it therefore no longer has access to the records of those patients who have already transferred so it is unclear how much data it would now be able to provide to the complainant.
31. The complainant has been clear however, that he needed the information he requested at the time he submitted his request, and has no use for it at this point.
32. Because of its failure to recognise the scope of the complainant's request as indicated in his request for an internal review, the Commissioner finds that the Practice Group breached section 16(1) of the FOIA. The Practice Group has confirmed to the Commissioner that it has learned from this complaint and, if there is any element of doubt, it will take care to clarify requests it receives in the future.

Right of appeal

33. 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

34. 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.
35. 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

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