

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 April 2018

Public Authority: The Callowland Surgery
Address: 141A Leavesden Road
Watford, WD24 5DG

Decision (including any steps ordered)

1. The complainant has requested information relating to the prescribing of Dexamethasone and Cyclophosphamide.
2. The Commissioner's decision is that The Callowland Surgery (the surgery) has breached section 10 (time for compliance) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response to the complainant's request in accordance with its obligations under FOIA.
4. The public authority must take these steps 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 the Act and may be dealt with as a contempt of court.
5. 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

6. On 9 August 2017, the complainant wrote to the surgery and requested information in the following terms:

*“Are you able to freely prescribe Dexamethasone and Cyclophosphamide medications?
What symptoms/indications have to be present in the patient before you freely prescribe Dexamethasone and Cyclophosphamide?
Are you able to tell me from what year/month you were able to freely prescribe Dexamethasone and Cyclophosphamide?”*

7. At the time of this decision notice the surgery had not provided a response.

Scope of the case

8. The complainant contacted the Commissioner on 4 October 2017 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if the surgery has complied with its obligations under the FOIA.

Reasons for decision

Section 10 – time for compliance

10. The Commissioner wrote to the surgery on 4 October 2017 advising that a response to the request should be provided within 10 working days.
11. The Commissioner contacted the surgery again on 8 January 2018 advising it should provide a response. The surgery advised the same day that it could not trace the original request, therefore the Commissioner provided a copy.
12. On 12 February 2018 the Commissioner wrote to the surgery asking for confirmation that a response had been provided to the complainant. To date she has not had any further communication from the surgery.
13. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

14. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
15. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that the public authority did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

16. The Commissioner's decision is that the surgery did not deal with the request for information in accordance with the FOIA. In this case the surgery has breached section 10(1) by failing to respond to the request within 20 working days.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF