

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 November 2020

Public Authority: Meridian Surgery
Address: Anchor Healthcare Centre
Meridian Way
Peacehaven
East Sussex
BN10 8NF

Decision (including any steps ordered)

1. The complainant requested information from the Meridian Surgery (the Surgery) about their prescribing statistics since 2015 for Eczema preparations and for any audits relating to Asthma and Eczema care that they had conducted. The Surgery had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that the Surgery failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Surgery to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Surgery 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 FOIA and may be dealt with as a contempt of court.

Status of GPs under the FOIA

5. The Commissioner notes that the Surgery itself is not a public authority for the purposes of the FOIA. Rather, each GP within the practice is a separate legal person and therefore each is also a separate public authority. The actual duty under section 1 of the FOIA, to confirm or deny whether information is held and then to provide the requested information to the applicant, subject to the application of any exemptions, rests with each individual GP.
6. However, the Commissioner acknowledges that when an applicant makes an information request to a medical practice, or a single GP within the practice, it is reasonable to expect, for convenience, that the practice will act as the single point of contact and provide a response on behalf of the GPs concerned.
7. For the purposes of this decision notice, references to the views and actions of "the Surgery" should be read as referring to the collective views and actions of the GPs concerned.

Request and response

8. In a letter dated 31 December 2019, the complainant wrote to the Surgery and requested information in the following terms:

"Under FOI, please provide your prescribing statistics (from the NHS BSA and their prescribing department) for the period of 2015 onwards to include (all of your practices) eczema preparation prescribing and to include Viscopaste – this is hardly excessive and will not cost you anything. Please also provide details of any audit relating to Asthma Care or Eczema that you have done."
9. In a subsequent letter dated 30 May 2020, the complainant requested the information again in the same terms as he had not received a response to his 31 December 2019 request.
10. The complainant has provided copies of both letters which were addressed to the Surgery and which he states were sent via hard-copy post.
11. The Surgery did not acknowledge either request and had failed to provide a substantive response by the date of this notice.

Scope of the case

12. The complainant contacted the Commissioner on 5 September 2020 to complain about the failure, by the Surgery, to respond to the request.
13. In line with her usual practice, the Commissioner contacted the Surgery on 18 September 2020 to highlight the outstanding response. She requested that the Surgery respond to the request within 20 working days. The correspondence was neither acknowledged nor responded to.
14. The complainant contacted the Commissioner on 12 November 2020 to request a decision notice considering the Surgery's compliance with the FOIA.
15. The scope of this notice and the following analysis is to consider whether the Surgery has complied with section 10 of the FOIA.

Reasons for decision

16. Section 1(1) of the 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.*

17. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

18. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
19. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

20. From the evidence presented to the Commissioner in this case, it is clear that in failing to issue a response to the request within 20 working days, the Surgery has breached section 10 of the FOIA.

Other matters

21. On 1 October 2020, Meridian Surgery merged with Rowe Avenue Surgery and became known as HavensHealth.¹ Accordingly, the step ordered above in this notice should now be carried out by HavensHealth.

¹ <https://www.havenshealth.co.uk/news/welcome-to-havenshealth>

Right of appeal

22. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

23. 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.
24. 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

Ben Tomes
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