

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 October 2022

**Public Authority:** Buckinghamshire, Oxfordshire & Berkshire West  
Integrated Care Board

**Address:** Sandford Gate  
Littlemore  
Oxford  
OX4 6LB

### **Decision (including any steps ordered)**

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1. The complainant requested Oxfordshire Clinical Commissioning Group (CCG), now Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board, to disclose information relating to GP practices and what happens if they are unable to offer appointments. The CCG provided the complainant with some information. The complainant believes the two responses they received are contradictory.
2. The Commissioner's decision is that the CCG met its obligations under section 1 of FOIA and therefore there is no further action required. It provided a response to the issue in its internal review and this is in accordance with information the complainant obtained from another public authority. The Commissioner cannot compel the CCG to provide further clarification or explanation as this is beyond the requirements of FOIA.

## Request and response

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3. On 30 November 2021, the complainant wrote to the CCG and requested information in the following terms:

“1. When a GP practice is unable to offer appointments to patients as the surgery does not have the capacity to see patients, e.g., not enough doctors or medical staff, does the OCCG consider this to constitute the practice being unable to deliver contracted services?”
4. The CCG responded on 21 December 2021. It explained that the contractual arrangements with practices are set nationally through the General Medical Services regulations. The CCG then went on to explain that the regulations allow individual practices to decide which services to provide when, to meet the need of their patients. It advised the complainant that those regulations do not require practices to be open at all times during core hours and deliver all services at all times when they are open.
5. The complainant requested an internal review on 19 January 2022. They said the CCG’s response seemed to contradict information they had received from NHS England. They commented that the information from NHS England suggested that GP surgeries are required to report to their local CCG any periods when they are unable to provide services to patients.
6. The CCG carried out an internal review on 15 February 2022 and notified the complainant of its findings. It stated that where a practice is unable to provide appointments, for any reason, the CCG requires that a practice notifies it at the earliest opportunity. The CCG said this is the same as the NHS England information so there is no contradiction.
7. The complainant disagreed and felt the two responses were contradictory. They asked the CCG to provide clarification about when a GP surgery is unable to provide appointments and their obligations of reporting to the CCG. They repeatedly asked the CCG for this but the CCG failed to provide that clarification and simply provided further copies of its initial response and internal review response.

## Scope of the case

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8. The complainant contacted the Commissioner on 28 April 2022 to complain about the way their request for information had been handled. They are dissatisfied that the CCG has not provided the necessary clarification. They feel the initial response and the internal review

response to their request contain conflicting information and requires the CCG to clarify what happens if a GP practice is unable to provide appointments and what their obligations are in terms of notifying their CCG.

9. The Commissioner considers the scope of his investigation to be to determine whether the CCG has met its obligations under section 1 of FOIA. The Commissioner has decided that it has and he will now explain why.

## Reasons for decision

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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. The FOIA provides a right of access to recorded information; this does not extend to the right to ask questions, explanations, clarification of information or debate the contents of information *unless* the response to those questions, requests for explanation or clarification and so on is already held in recorded form.
12. On receipt of a request a public authority only has to consider if it holds any recorded information of the nature specified and either disclose that to the applicant or inform them why it is exempt from disclosure. A public authority is not required to do anymore.
13. In the complainant's request, they asked "...does the OCCG consider this to constitute the practice being unable to deliver contracted services". This is a request for an opinion or explanation, which is beyond the requirements of FOIA. The CCG was correct to consider the request and nature of the information specified and inform the complainant that the relevant recorded information it holds is the regulations governing all GP practices.
14. When the complainant requested an internal review and referred the CCG to information they had obtained from NHS England, the CCG responded providing further explanation. It advised the complainant that if a practice is unable to provide appointments it is required to notify the CCG and the CCG would seek to support it. The CCG confirmed that this is the same response the complainant obtained from NHS England.

15. The Commissioner considers the CCG provided the necessary clarity at the internal review stage even though it is not a requirement of FOIA. The FOIA is about access to what recorded information is held and it said that the information it held was the regulations governing all GP practices.
16. For the above reasons, the Commissioner is satisfied that the CCG has complied with section 1 of FOIA in this case. He cannot compel the CCG to provide further clarification and explanation, as this is not a requirement of FOIA.

## Right of appeal

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**