

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2022

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

Address: Sandford Gate
Littlemore
Oxford
OX4 6LB

Decision (including any steps ordered)

1. The complainant requested information from Oxfordshire Clinical Commissioning Group (the CCG), which is now Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board, about the implementation of a 'Black Alert' status by a specific GP practice. The CCG provided the complainant with some information, and stated that it did not hold the rest. The complainant believes that the CCG has not responded to all of their request.
2. The Commissioner's decision is that the CCG met its obligations under section 1 of FOIA, and therefore does not require it to take any further steps on this matter.

Request and response

3. On 4 November 2021, the complainant wrote to the CCG and requested information in the following terms:

"Please provide details all documents and metrics that Windrush Surgery (along with all other GP practices) are obliged to submit or make available to the OCCG in order to evaluate their performance.

When a GP practice goes to Black Alert or closes triage, such that it is not possible to make an appointment, is there an obligation for the surgery to keep a record of these events and is this information submitted to any governing body?"

4. The CCG responded on 24 November 2021. It answered "none" to the first part of the request, and explained in response to the second part that practices do not declare Operational Pressure Escalation Level statuses. It further clarified that there is no obligation for practices to keep this information and it is not reported to the governing body, and that a practice would only be closed in very extreme circumstances.
5. The complainant wrote to the CCG on 25 November 2021. They said that they believed the CCG's response to the second part of the request was incorrect as the Windrush Surgery is frequently closed due to operational issues and does declare a 'Black Alert' status.
6. Following an internal review the CCG wrote to the complainant on 23 December 2021. It reiterated that Operational Pressures Escalation Level statuses are not operated for primary care settings, and that the CCG does not use 'Black Alerts' when referring to the status of its practices. It offered further explanation that the General Medical Services regulations allow individual practices to decide which services to provide when, in order to meet the needs of their patients.
7. On 20 January 2022, and on multiple occasions thereafter, the complainant wrote to the CCG and asked it to explain the discrepancy between the information which it had provided in its responses, and information provided by NHS England.

Scope of the case

8. The complainant contacted the Commissioner on 5 May 2022 to complain about the way their request for information had been handled. In particular they are dissatisfied that the CCG has not provided the clarification which they sought after it had provided its internal review response.
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.

Reasons for decision

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 is already held in recorded form.
12. In their correspondence to the CCG following its internal review the complainant said, "Please explain the discrepancy in the information provided by the OCCG and NHS England." The Commissioner is clear that this is a request for an explanation, and is therefore satisfied that it falls outside of the obligations placed upon the CCG by FOIA.
13. The Commissioner considers that the CCG provided the information which it holds relevant to the scope of the request in both its initial response and its internal review response.
14. For the above reasons, the Commissioner is satisfied that the CCG has complied with section 1 of FOIA in this case. He cannot compel a public authority to provide further clarification or explanation as this is not a requirement of FOIA.

Right of appeal

15. 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

16. 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.
17. 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

Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF