

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

### **Decision notice**

**Date:** 30 April 2024

**Public Authority:** The provider of the "GP at Hand" service

**Address:** eMed UK HQ  
184 Drummond St  
London  
NW1 3HP

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

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1. The complainant requested information from the provider of the "GP at Hand" service ("the public authority"). The Commissioner understands that provider to be Babylon UK, which is owned by eMed UK. By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
  - The public authority must provide a substantive response to the request that it dealt with as reference number 3NF5SLXXDF, in accordance with its obligations under FOIA.<sup>1</sup>
4. The public authority must take this step within 30 calendar days of the date of this decision notice. Failure to comply may result in the

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<sup>1</sup> The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format;

[Information Commissioner's Office - Advisory note to public authorities | ICO](#)

Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 7 January 2024 the complainant wrote to the public authority to request information. That request was allocated the reference number 3NF5SLXXDF, but had not been responded to at the point the complaint was made to the Commissioner.

## Reasons for decision

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6. Sections 43A and 44 of schedule 1 of FOIA designate those providing primary or general medical services for the purposes of the National Health Service Act 2006, to be covered by FOIA in relation to information they hold in respect of the provision of those services. Although the public authority does not appear to be a traditional GP practice, the Commissioner considers that it is providing either personal or general medical services to the NHS – and is therefore subject to FOIA.
7. 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.”
8. Section 10(1) of FOIA states that a public authority must comply with its obligations under section 1(1) promptly and “not later than the twentieth working day following the date of receipt”.
9. On 28 February 2024 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
10. On 15 March 2023 the public authority informed the ICO that it had responded to the request, but did not provide the ICO with a copy. On 23 April 2024 the public authority sent the ICO a copy of

correspondence it had sent to the complainant on 15 March 2023, which states:

"[...] We have expedited this request and **have attached a copy as per request.**

Please note we are unable to share any emails received by and sent to any third parties due to confidentiality. [...]" [emphasis added]

11. Although the correspondence refers to an attachment, no such attachment was provided to the Commissioner. It is not clear whether the quoted section refers to a copy of a response or a copy of the original wording of the request – which was submitted via an electronic portal.
12. In the Commissioner's view, the correspondence quoted above (which is all he has been provided with) does not demonstrate that the public authority has dealt with the request for information in accordance with FOIA. The public authority has failed to confirm what, if any, information it holds for the purposes of FOIA. It has not communicated any information to the complainant and it has not issued a proper refusal notice explaining why information is being withheld.
13. The Commissioner therefore finds that the public authority has breached section 10(1) by failing to comply with its duty under section 1(1) within 20 working days. It is now required to respond to the request in accordance with FOIA.
14. The public authority should start by confirming what information (if any) it holds within the scope of the request. If it does hold relevant information, the public authority must either provide that information or issue a refusal notice that complies with section 17 of FOIA.
15. The public authority is only required, by FOIA, to consider, for disclosure, information relating to its provision of general or primary medical services to the NHS. If the public authority considers that any of the information that would fall within the scope of the request does not relate to the provision of those services, it would be entitled to state that that information was not held for the purposes of FOIA.

## **Right of appeal**

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16. 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)

17. 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.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Roger Cawthorne**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**