

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 18 July 2013

Public Authority: Regulation and Quality Improvement Authority
Address: 9th Floor
Riverside Tower
5 Lanyon Place
Belfast
BT1 3BT

Decision (including any steps ordered)

1. The complainant requested information relating to the registration status of four named individuals. The Regulation and Quality Improvement Authority (RQIA) initially failed to recognise the correspondence as an information request under the FOIA. Following the Commissioner's intervention the RQIA has now complied with the provisions of the FOIA and no further steps are required.

Request and response

2. The RQIA is responsible for monitoring and inspecting health and social care services in Northern Ireland¹. The RQIA also has responsibilities transferred from the Mental Health Commission in 2009. These include holding a register of all part II and part IV Doctors and Approved Social Workers under the Mental Health (Northern Ireland) Order 1986.
3. On 15 January 2013, the complainant wrote to the RQIA and requested registration details for two named individuals. On 21 January 2013 the complainant made an additional request for the registration details of two further named individuals.

¹ www.rqia.org.uk

4. The RQIA responded to the complainant on 30 January 2013, although it did not provide him with the information he had requested.
5. On 30 January 2013 the complainant repeated his request. The RQIA responded on 21 February 2013, but again did not address his information request.
6. On 4 March 2013 the complainant asked that his requests be considered under the FOIA. On 11 March 2013 the RQIA provided some information to the complainant.

Scope of the case

7. On 23 April 2013 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant was of the view that the RQIA had failed to deal with his request and asked the Commissioner to require the RQIA to provide the information he had requested.
8. Under section 50(2)(a) of the FOIA the Commissioner is not required to make a decision if the complainant has not exhausted the public authority's internal review process. However, the Commissioner is mindful that the RQIA had provided three separate responses to the request and therefore had several opportunities to reconsider the request. Therefore the Commissioner considered it appropriate to proceed to an investigation without requiring the complainant to request a further internal review.
9. Having considered the correspondence in the case it appeared to the Commissioner that, although the RQIA had responded to the complainant, it had not actually confirmed or denied that it held the specific requested information. Following discussions with the Commissioner the RQIA provided further responses to the complainant on 3 June 2013 and 19 June 2013. The RQIA's letter of 19 June 2013 confirmed to the complainant that the RQIA did not hold some of the information he requested, but that the information it did hold had been provided to him.

Reasons for decision

Section 1: duty to respond to information requests

Section 10(1): time for compliance

10. Section 1(1)(a) of the FOIA requires that a public authority confirm or deny to the complainant that the requested information is held, unless an exemption from this duty applies. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than twenty working days after the date of receipt of the request.
11. In this case the RQIA did respond to the complainant's correspondence. However the RQIA has accepted that it wrongly assumed that the complainant was asking for information about his own circumstances. This resulted in the RQIA not treating the correspondence as requests for information under the FOIA, despite the complainant's explicit request that it do so in his letter of 4 March 2013.
12. Given the circumstances of this particular case the Commissioner understands how confusion arose. However the Commissioner is unable to provide further detail in this decision notice as to do so may disclose sensitive personal data relating to the complainant.
13. The Commissioner has reminded the RQIA that any written request for recorded information (that is not the personal data of the applicant) will fall under the FOIA and should be treated as such. Public authorities should consider the wording of such requests carefully to avoid making incorrect assumptions as to the requested information.
14. The Commissioner finds that the RQIA ought to have responded to the complainant's requests within the time for compliance, ie no later than twenty working days following receipt of the requests. In this case the RQIA did not provide an adequate response to the complainant until 19 June 2013. As this was outside the time for compliance the Commissioner finds that the RQIA failed to comply with section 1(1)(a), section 1(1)(b) and section 10(1) of the FOIA in respect of the information not initially provided.

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: 0300 1234504
Fax: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Alexander Ganotis
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