

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 May 2024

Public Authority: Spectrum Community Health CIC
Address: One Navigation Walk
Hebble Wharf
Wakefield
WF1 5RH

Decision (including any steps ordered)

1. The complainant has requested information about supervised swallowing policies in HMP Frankland and a list of 'not in-possession' medication.
2. The Commissioner's decision is that the above public authority ("the public authority") breached section 1(1) and section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 31 August 2023, the complainant wrote to the public authority and requested information in the following terms:

"I would like any information relating to supervised swallowing policies in HMP Frankland. I also require the list of 'Not In-Possession' medication, especially (and specifically) due to the reason that it is 'tradeable' medication along with the dates that they were placed on the tradeable medication/Not IP list.[...] I also request Spectrum's national policy and local medication distribution policies."
5. The public authority responded on 16 November 2023.

Scope of the case

6. The complainant has confirmed that they are happy with the information they have now received as a result of the public authority's internal review of 9 February 2024 but they wish to have the late response formally recorded.

Why Spectrum Community Health Community Interest Company (CIC) can be categorised as a public authority on this occasion

7. FOIA gives members of the public the right to access recorded information held by public authorities and places a duty on public authorities to respond to requests for such information.
8. The definition of 'public authority' is given in section 3(1) of the FOIA. In particular it states that under FOIA a "public authority" means -
 - a) subject to section 4(4), any body which, any other person who, or the holder of any office which-
 - i. is listed in Schedule 1, or
 - ii. is designated by order under section 5, or
 - b) a publicly-owned company as defined by section 6.
9. With regard to Schedule 1 of FOIA, Spectrum Community Health CIC is included in paragraph 44, which lists a public authority as:

"Any person providing [general medical services, general dental services,] general ophthalmic services or pharmaceutical services under [the National Health Service Act 2006 or the National Health Service (Wales) Act 2006], in respect of information relating to the provision of those services."
10. Therefore, if a request is submitted to an organisation providing general medical services under the National Health Service Act 2006, and the request is for information about the provision of those services, then the organisation can be categorised as a public authority.
11. Spectrum Community Health CIC is contracted by NHS England & Improvement to provide healthcare services in a number of prison settings. Spectrum Community Health CIC is registered with the Care Quality Commission to provide the regulated activities of diagnostic and screening procedures and treatment of disease, disorder or injury.

Reasons for decision

12. 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.”

13. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.

14. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority has breached section 1(1) and section 10(1) by failing to communicate the relevant information it holds to the complainant within 20 working days.

Other matters

15. The complainant requested an internal review on 22 November 2023 but the public authority didn't provide one until 9 February 2024.

16. The Commissioner notes that the public authority failed to carry out an internal review within 40 working days. The Section 45 Code of Practice¹ advises all public authorities to carry out internal reviews in a timely manner and within 20 working days. A total of 40 working days is permitted in particularly complex cases only.

17. Together with the public authority's delayed initial response to the request, it took almost six months for the complainant to receive the information they requested.

18. The public authority is reminded of the requirements of the Code and of the importance of carrying out internal reviews in a timely manner and

¹ [Freedom of Information Code of Practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/672222/Freedom_of_Information_Code_of_Practice_-_GOV.UK.pdf)

in accordance with the timeframes specified in the Code. The Commissioner has recorded this as part of his routine monitoring of public authorities.

Right of appeal

19. 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

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Keeley Christine
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Wycliffe House
Water Lane
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