

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

### **Decision notice**

**Date:** 9 June 2023

**Public Authority:** Dr Angela J Lawrence, Dr Ben Tutty, Dr Ben G Dawson, Dr Jilly E Coleman, Dr William Davies, Dr Katherine Stephen, Dr Katie Mack, Dr Caitlin Webber

**Address:** Partners of St Neots Surgery  
1 North Prospect Road  
Milehouse  
Plymouth PL2 3HY

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

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1. The complainant has requested information associated with the death of their relative.
2. The Commissioner finds that St Neots Surgery ('the Surgery') doesn't hold the requested autopsy report and complied with section 1(1) of FOIA in respect of that report and two other reports the complainant requested. However, the Surgery disclosed some of the requested statistical information for the period 2018 to 2021 and advised it didn't hold earlier information. It has now identified it holds further relevant statistical information for the period from 2013/2014.
3. The Commissioner's final decision is therefore that the Surgery has breached section 1(1) of FOIA as it hasn't communicated all the relevant information it holds. The Surgery responded to the request outside the 20-working day requirement and so also breached section 10(1).
4. The Commissioner requires the Surgery to take the following step to ensure compliance with the legislation:

- Provide the complainant with the further relevant statistical information it has identified it holds for the period from 2013/2014.
5. The Surgery must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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6. As part of wider correspondence, the complainant requested the following information from the Surgery on 25 January 2023:

"...[1] Please supply a copy of the information to which you refer dated 24/06/2020 and 22/07/2020... [2] Please provide a copy of the unauthorised autopsy report.... [3] Please provide the surgery's annual Cancer statistics from 2014 to 2021 To include the number of Patients that have suffered from a similar diagnosis.

[4] Please provide the surgery's annual statistics from 2014 to 2021 for

Asthma  
COPD  
RSV  
Still births  
Stroke  
Heart disease +conditions  
Covid 19

7. Regarding the above information, the Surgery disclosed the reports requested at part [1] and advised it didn't hold an autopsy report (part [2]). Regarding the statistical information at [3] and [4] the Surgery provided some of the information for 2018/2019 to 2020/2021 only. It explained that it had changed its computer system a few years ago and couldn't provide some information earlier than 2018.

## Reasons for decision

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8. The complainant submitted a data protection complaint to the Commissioner about the Trust's handling of their wider correspondence. The Commissioner identified that the above information isn't the complainant's own personal data. He therefore opened a separate FOIA complaint case to consider the Surgery's handling of these particular elements.

9. From their data protection complaint to the Commissioner it appears that the complainant is dissatisfied with the reports the Surgery sent to them as they consider them to be unreadable. They dispute that the Surgery doesn't hold the requested autopsy report and they're dissatisfied that the Surgery hasn't provided the statistical information from 2014.
10. This reasoning therefore covers those matters. The Commissioner will also discuss the two reports and the requested autopsy report under 'Other Matters'.
11. Section 1(1) of FOIA obliges a public authority to confirm whether it holds information an applicant has requested and to communicate the information to the applicant if it's held and isn't exempt information.
12. Under section 10(1) a public authority must comply with section 1 promptly and within 20 working days following the date of receipt of the request.
13. Of the two reports the Surgery sent to them, the complainant said, "Very Poor quality of scanned info provided Please correct this by supplying readable information."
14. The Commissioner asked the Surgery to send these reports to him which it did, and it confirmed that these were the same versions of the reports it had sent to the complainant. The Commissioner found the reports to be entirely readable. The Surgery explained it had sent them to the complainant via a programme called 'IGPR' which is its "redaction toolkit" and that it has never had a problem before with anything being unreadable.
15. In the circumstances, the Commissioner is satisfied that the Surgery complied with its duty under section 1(1) of FOIA in respect of its communication of the reports. That the complainant's own IT appears to have rendered the reports unreadable is not something the Surgery could have reasonably foreseen. However, and as noted, the Commissioner will discuss the reports further under 'Other Matters'.
16. Regarding the requested autopsy report, the Surgery has confirmed to the Commissioner that the patient concerned didn't have an autopsy and so the Surgery doesn't hold any autopsy report. The Commissioner accepts that is the case and is therefore satisfied that the Surgery doesn't hold this information. Its response to this part therefore complied with section 1(1) of FOIA. Again this is discussed in 'Other Matters'.
17. Regarding the statistical information, the Surgery told the Commissioner that as a result of the complaint to him it had contacted its IT supplier

and, between them, the Surgery and the supplier had managed to retrieve annual statistics from 2013/2014 up to 2021. It noted that this had not been an easy task.

18. The Surgery has now identified further information it holds within scope of the complainant's request for certain statistics.
19. Because the Surgery hasn't communicated to the complainant all the relevant information it holds within 20 working days of the request, the final position is that the Surgery has breached section 1(1) of FOIA.
20. The complainant submitted their request on 25 January 2023 and the Surgery didn't respond to it until 2 March 2023. The Surgery therefore breached section 10(1) of FOIA.

### **Other matters**

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21. The Commissioner has reviewed the Surgery's responses of 2 and 20 March 2023 to the complainant's correspondence of 25 January 2023 and their request for a review. He notes that the Surgery didn't state under what legislation it was handling each element of the request, including those elements that were the complainant's own personal data.
22. Without stating the legislation under which it was disclosing them, the Surgery sent the two reports to the complainant and similarly, advised it didn't hold the autopsy report. The Commissioner has viewed the reports and the reports, and whether or not the patient concerned had had an autopsy, is that patient's medical information.
23. In the circumstances, the Commissioner has assumed that the Surgery handled the requests for this information under FOIA.
24. Disclosure under FOIA is, in effect, disclosure to the world at large and medical records of a deceased individual should instead be disclosed under the Access to Health Records Act 1990.
25. Because the complainant is a relative of the deceased individual the Surgery disclosed reports about that individual and confirmed the individual hadn't had an autopsy. The Surgery should have considered what it would have done if a complete stranger had requested that information.

26. Section 21 of FOIA concerns information that is exempt from disclosure because it is already reasonably accessible to the applicant. The Surgery should have applied this exemption to these two requests and advised the complainant to submit a request for this information to Primary Care Support England under the above Access to Health Records Act<sup>1</sup>. It is important that the Surgery take note of this and handle such requests appropriately in the future.

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<sup>1</sup> <https://www.nhs.uk/common-health-questions/nhs-services-and-treatments/can-i-access-the-medical-records-health-records-of-someone-who-has-died/>

## Right of appeal

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27. 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)

28. 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.
29. 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

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