

Decision Notice



Decision 011/2010 Mr Jonathan Ritchie and Greater Glasgow NHS Board

Efficacy of specific treatment options

Reference No: 200901033

Decision Date: 26 January 2010

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Kevin Dunion

Scottish Information Commissioner

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Summary

Mr Ritchie requested from Greater Glasgow NHS Board (NHS Greater Glasgow and Clyde) information as to the efficacy of three different forms of treatment. NHS Greater Glasgow and Clyde responded by providing some information to Mr Ritchie. Following a review, as a result of which NHS Greater Glasgow and Clyde relied on the exemption in section 38(1)(b) of FOISA (Personal information) for withholding certain information from him while claiming that it did not hold the remainder, Mr Ritchie remained dissatisfied and applied to the Commissioner for a decision.

Following an investigation, the Commissioner found that NHS Greater Glasgow and Clyde had dealt with Mr Ritchie's request for information in accordance with Part 1 of FOISA, by advising Mr Ritchie that it did not hold the requested information. He did not require NHS Greater Glasgow and Clyde to take any action.

Relevant statutory provisions and other sources

Freedom of Information (Scotland) Act 2002 (FOISA) sections 1(1) (General entitlement) and 17 (Notice that information is not held)

The full text of each of the statutory provisions cited above is reproduced in the Appendix to this decision. The Appendix forms part of this decision.

Background

1. On 18 August 2008, Mr Ritchie wrote to NHS Greater Glasgow and Clyde to request the following information;

“... comparative data on the three treatment options which were offered me, showing by what degree each course of treatment improves the mental health of the patient as measured by test scores for each of the questions posed by the questionnaires recorded before and after treatment by yourself [a named clinician] and the named colleagues who administer the other treatments.”
2. No response was received by Mr Ritchie from NHS Greater Glasgow and Clyde to this information request.



3. Mr Ritchie wrote to NHS Greater Glasgow and Clyde on 20 October 2008 requesting a review of its failure to respond to his information request. Further correspondence followed.
4. A response was provided by NHS Greater Glasgow and Clyde on 18 March 2009. Within this response, NHS Greater Glasgow and Clyde provided Mr Ritchie with a copy of a paper which it believed would fulfil his information request.
5. On 9 April 2009, Mr Ritchie wrote to NHS Greater Glasgow and Clyde requesting a review of its decision. In particular, Mr Ritchie advised that he did not consider the information provided to him answered the request he had submitted.
6. NHS Greater Glasgow and Clyde notified Mr Ritchie of the outcome of its review on 7 May 2009. In its response, NHS Greater Glasgow and Clyde acknowledged Mr Ritchie's concern that the information disclosed to him did not fulfil his request. NHS Greater Glasgow and Clyde sought to rely on the exemption in section 38(1)(b) of FOISA for withholding individual score sheets, while advising that it did not hold the remainder of the information he had requested.
7. Mr Ritchie wrote to the Commissioner on 24 May 2009, stating that he was dissatisfied with the outcome of NHS Greater Glasgow's review and applying to the Commissioner for a decision in terms of section 47(1) of FOISA.
8. The application was validated by establishing that Mr Ritchie had made a request for information to a Scottish public authority and had applied to the Commissioner for a decision only after asking the authority to review its response to that request.

Investigation

9. On 5 June 2009, NHS Greater Glasgow and Clyde was notified in writing that an application had been received from Mr Ritchie and asked to provide the Commissioner with any information withheld from him. NHS Greater Glasgow and Clyde responded by providing a submission to the effect that it did not hold any information falling within the scope of Mr Ritchie's request. The case was then allocated to an investigating officer.
10. The investigating officer subsequently contacted NHS Greater Glasgow and Clyde, giving it an opportunity to provide comments on the application (as required by section 49(3)(a) of FOISA) and asking it to respond to specific questions. In particular, NHS Greater Glasgow and Clyde was asked to justify its revised position that no information was held.



11. A full submission was received from NHS Greater Glasgow and Clyde. Within this submission, NHS Greater Glasgow and Clyde explained that it could provide Mr Ritchie with some information as to test scores as a measure of performance in relation to individual practitioners, but this could only be provided for 2008. Following discussion between the investigating officer and Mr Ritchie, NHS Greater Glasgow and Clyde released this information to him during the investigation. Mr Ritchie confirmed that he was satisfied with the information, in the final form in which it was provided to him.
12. Further correspondence was entered into with both Mr Ritchie and NHS Greater Glasgow and Clyde during the course of the investigation.
13. The submissions provided by both parties will be fully considered, where relevant, in the Commissioner's analysis and findings section below.

Commissioner's analysis and findings

14. In coming to a decision on this matter, the Commissioner has considered the submissions made to him by both Mr Ritchie and NHS Greater Glasgow and Clyde and is satisfied that no matter of relevance has been overlooked.

Section 17 – Notice that information is not held

15. Section 17(1) of FOISA requires that where a Scottish public authority receives a request for recorded information it does not hold, then it must give the applicant a notice in writing to that effect.
16. In order to determine whether NHS Greater Glasgow and Clyde dealt with Mr Ritchie's request correctly, the Commissioner must be satisfied as to whether, at the time the request was received, NHS Greater Glasgow and Clyde held any information which would fall within the scope of that request.
17. With this in mind, the investigating officer asked NHS Greater Glasgow and Clyde what searches it had carried out to determine whether any relevant information was held.
18. In its submission, NHS Greater Glasgow and Clyde confirmed that it did not hold any of the information Mr Ritchie had requested, being;
 - a. Information included on pre and post evaluation score sheets relating to individual patients
 - b. Information on test scores as a measure of performance in relation to individual practitioners

Each of these sets of information will be considered separately.



Information included on pre and post evaluation score sheets relating to individual patients

19. NHS Greater Glasgow and Clyde explained that, in respect of the pre and post evaluation score sheets, the information that had been provided to Mr Ritchie by way of a paper on the treatments offered had included an evidence based document supported by data collected from these score sheets for patients who accessed the relevant treatment in East Glasgow during 2002/2003/2004. Since this time, NHS Greater Glasgow and Clyde advised that health services within Glasgow had undergone considerable re-organisation, with mental health services now being managed and provided by the Primary Care Mental Health Team within the East Glasgow Community Health Care Partnership. NHS Greater Glasgow and Clyde further explained that the relevant score sheets should have been archived, but that (due to organisational restructuring and inevitable changes in personnel and managers) detailed records of the location of archived records or whether they still existed were no longer available.
20. NHS Greater Glasgow and Clyde explained that it had carried out a search of the areas it considered would hold such records in respect of the actual pre and post evaluation score sheets, if they existed, including the offices from which clinicians carrying out this work had operated, together with areas where information from that work stream would have been archived, but they were unable to locate the score sheets for 2002/2003/2004.
21. NHS Greater Glasgow and Clyde also explained that it is not aware of having any statutory obligation to hold information on individual score sheets.
22. NHS Greater Glasgow and Clyde also advised that the aggregate data collected from the pre and post evaluation score sheets during 2002/2003/2004 had been held in a spreadsheet. However, the computer on which the spreadsheet was held had been decommissioned and the data deleted from it (prior to Mr Ritchie's request), although NHS Greater Glasgow and Clyde acknowledged that there were no records which would confirm this action. NHS Greater Glasgow and Clyde understood that no back-ups of the data held on the computer were made prior to its decommissioning.
23. The records management policy applicable to this information is, according to NHS Greater Glasgow and Clyde, the Scottish Government Records Management: NHS Code of Practice (Scotland) Version 1.0, in particular Annex D. NHS Greater Glasgow and Clyde indicated that this document (a copy of which was provided to the Commissioner) required that records of this kind be retained for a minimum of 20 years, and that NHS organisations might wish to keep records relating to mental health for up to 30 years before review.
24. Having taken into account the submissions of NHS Greater Glasgow and Clyde in relation to this set of information, the Commissioner is satisfied that the searches carried out by NHS Greater Glasgow and Clyde to locate any relevant information were adequate in the circumstances. In this case, it is not the Commissioner's role to comment on whether NHS Greater Glasgow and Clyde has complied with the appropriate records management policies.



25. On the basis of the submissions received, therefore, the Commissioner is satisfied that no information falling within the scope of Mr Ritchie's request was held by NHS Greater Glasgow and Clyde in respect of the pre and post evaluation score sheets relating to individual patients.

Information on test scores as a measure of performance in relation to individual practitioners

26. Information concerning individual practitioners and contact with patients, NHS Greater Glasgow and Clyde explained, was recorded in the Patient Information Management System (PIMS). It explained that the PIMS system was introduced in to the East Glasgow CHCP Primary Care Mental Health Team during 2007, although some records dating back to 2006 were retrospectively registered on to the system. In any event, however, the PIMS system did not record details of the pre and post evaluation scores. Therefore, for NHS Greater Glasgow and Clyde to be able to provide relevant information to Mr Ritchie to fulfil this part of his request it would have to carry out an exercise to cross reference this data (insofar as it was held) with the data held in respect of the pre and post evaluation score sheets. Given that it did not hold any relevant data in respect of the individual score sheets for 2002/2003/2004 (as considered above), it did not consider itself to be in a position to do this in respect of these years.
27. NHS Greater Glasgow and Clyde did explain, however, that it held (on an Access database) summary data from the score sheets for patients seen in 2009. However, this data was incomplete. Data obtained from the pre and post evaluation score sheets had also been retained for 2008. In correspondence with the investigating officer, NHS Greater Glasgow and Clyde explained that it could carry out an exercise to cross reference the information held in the Access database for the pre and post evaluation score sheets for 2008, with the information held in the PIMS system regarding practitioners, and provide this to Mr Ritchie.
28. Following communication with the investigating officer and Mr Ritchie, NHS Greater Glasgow and Clyde provided this information to Mr Ritchie. Mr Ritchie confirmed that it met his requirements.
29. Having taken into account the submissions from NHS Greater Glasgow and Clyde in relation to this set of information, the Commissioner is satisfied that NHS Greater Glasgow and Clyde does not (and did not at the time of Mr Ritchie's request) hold any relevant information as to practitioners' contact with patients. He also notes the outcome of the searches in relation to pre and post evaluation score sheets, as narrated above.
30. Given the data available to NHS Greater Glasgow and Clyde, therefore, the Commissioner is satisfied that it held no information falling within the scope of Mr Ritchie's request in respect of test scores as a measure of performance in relation to individual practitioners. He notes the subsequent provision of information in respect of 2008.



DECISION

The Commissioner finds that, in respect of the matters specified in his application, NHS Greater Glasgow and Clyde complied with Part 1 of the Freedom of Information (Scotland) Act 2002 in responding to the information request made by Mr Ritchie.

Appeal

Should either Mr Ritchie or NHS Greater Glasgow and Clyde wish to appeal against this decision, there is an appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of this decision notice.

Margaret Keyse
Head of Enforcement
26 January 2010



Appendix

Relevant statutory provisions

Freedom of Information (Scotland) Act 2002

1 General entitlement

- (1) A person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority.

...

17 Notice that information is not held

- (1) Where-
 - (a) a Scottish public authority receives a request which would require it either-
 - (i) to comply with section 1(1); or
 - (ii) to determine any question arising by virtue of paragraph (a) or (b) of section 2(1),if it held the information to which the request relates; but
 - (b) the authority does not hold that information,it must, within the time allowed by or by virtue of section 10 for complying with the request, give the applicant notice in writing that it does not hold it.
- (2) Subsection (1) is subject to section 19.
- (3) Subsection (1) does not apply if, by virtue of section 18, the authority instead gives the applicant a refusal notice.