

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2012

Public Authority: Southern Health and Social Care Trust
Address: Craigavon Area Hospital
68 Lurgan Road
Portadown
BT632QQ

Decision (including any steps ordered)

1. The complainant had requested documentation detailing the actions taken by the Trust in relation to the overseas adoption process as recommended by the Report of an Independent Review Panel. The focus of this complaint related to a quality assurance document that had been referenced in the minutes of the Southern Area Adoption Consortium dated 16 November 2007 and related to issues arising from the independent review.
2. The Commissioner's decision in this case is that, on the balance of probabilities, no recorded information is held in relation to the complainant's request. The Commissioner requires no further steps to be taken.

Request and response

3. On 22 July 2010, the complainant through his solicitor wrote to the Southern Health and Social Care Trust (the Trust) discussing a number of issues. The letter included an information request under the Freedom of Information Act 2000 ("FOIA"). The main thrust of the request was for a quality assurance document as referenced at point 4 in the minutes of the Southern Area Adoption Consortium dated 16 November 2007 which stated:

"[named staff member] had written a document around quality assurance....."

4. The Trust responded on 23 August 2010 addressing the issues raised in the solicitor's letter. In relation to the quality assurance document, the

Trust advised that it had contacted the professionals involved in that particular forum and that none of them held the document. The Trust did provide the complainant with a copy of the Regional Policy and Procedures for Adoption that had been issued in 2006 and advised that no other quality assurance documents for adoption are in place or used by the Trust.

5. On 28 October 2010, the complainant's solicitor wrote to the Trust and clarified that the requested quality assurance document had in fact been produced by [named member of staff] and not the member of staff as originally advised.
6. The Trust responded on 6 December 2010 advising that the information requested was not held and confirmed that a comprehensive search of all sources is conducted on receipt of all requests for information it receives.
7. Following further correspondence and the intervention of the Information Commissioner, the Trust provided the results of an internal review to the complainant on 14 June 2011. The Trust advised the complainant that [named member of staff] had since retired but had been contacted and had no recollection of formulating the paper referenced in the minutes. [named member of staff] was of the view the document had been attributed to him by mistake, furthermore, the Trust advised that his secretary at that time could not find a record of such a report being produced. The Trust did however locate and disclose to the complainant a draft unsigned document entitled 'Quality Assurance of Documentation for Presentation to the Adoption Panel' dated January 2008. The Trust advised the complainant that it presumed this to be the document attributed to [named member of staff] but could not categorically link it to the matter referred to in the minutes of 16 November 2007.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. It was established with the complainant that the scope of the Commissioner's investigation in this case was to determine if the Trust holds the information requested, namely the quality assurance document as referenced in the minutes dated 16 November 2007.

Reasons for decision

10. Section 1(1) provides:

"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."

11. The standard of proof that the Commissioner has applied in determining whether the Trust does hold information relevant to the complainant's request is the civil standard of the balance of probabilities as outlined by what was then the Information Tribunal in the case of *Linda Bromley v Information Commissioner & the Environment Agency* (EA/2006/0072). In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the Trust as well as the reasons offered by the Trust to explain why the information is not held.
12. Where the Trust has stated correctly that it does not hold information falling within the scope of a request, the Commissioner will conclude that the public authority has complied with the requirement of section 1(1)(a).
13. The Trust has advised that it does not hold the quality assurance document as referenced in the minutes of the Southern Area Adoption Consortium dated 16 November 2007, it has however, as advised in paragraph 7, provided the complainant with draft unsigned document entitled 'Quality Assurance of Documentation for Presentation to the Adoption Panel' dated January 2008.
14. When questioned further on the quality assurance document as referenced in the minutes, the Council advised the Commissioner that it had now undertaken a new search for the requested information to ensure all sources for the information had been considered. The Trust has provided the Commissioner with a detailed explanation of the extent of that search which is set out below.
15. The Trust advised the Commissioner that the information relevant to the complainant's request was likely to be held in two locations namely Edenderry House in Portadown and John Mitchell Place in Newry. The Trust's Head of Information Governance, in her role as Freedom of

Information Officer met with the minute taker for the Adoption Consortium and holder of [named member of staff's] records as well as the Director of Children's and Young People's Services and the Head of the Family Placement Service prior to visiting both premises in order to ensure all sources and likely locations were searched and any relevant information gathered.

16. The Trust's FOI Officer visited the Portadown office on 3 November 2011 and the Newry office on 7 November 2011. Extensive searches were then conducted by administrative/support staff that involved manual searches of paper records and electronic searches of data using key words. The search included correspondence created by [named member of staff] between 2006 and 2008, Southern Area Adoption Consortium minutes and miscellaneous documents, circulated papers, memos, emails and email archives. The Trust advised that no diaries, notebooks or laptops were searched as the formal nature of the document precluded it from being held in such sources.
17. The Trust also contacted a number of key staff by phone. This included the Southern Board representative of the Adoption Consortium Committee, the Southern Board's Legacy FOI Officer and the Head of Agency Decision Making. No further information was located other than the draft document that had already been disclosed to the complainant.
18. The Commissioner asked the Trust to explain why the document attributed to [named member of staff] would have been referenced in the minutes of 16 November 2007. The Trust has advised that item four of the minutes was to discuss issues identified in the Action Plan arising from the report of the Independent Review Panel. The Trust provided the Commissioner with an extract from that plan which was concerned with the quality of documentation going to adoption panels. The Trust advised that this was a priority item on the agenda and arose from the need to address documentation issues as a result of a case involving the complainant.
19. The Trust advised the Commissioner that [named member of staff] has since retired but was contacted by its Head of Family Placement Services to discuss the matter. [named member of staff] advised he has no recollection of drafting a document around quality assurance. It is the view of the Trust that [named member of staff] may have planned to start working on a quality assurance document but he had not at that time shared it with any other professionals. [named member of staff] was not present at the meeting on the 16 November 2007 and the Trust has advised it was likely that it was 'third-part reporting' that was minuted.

20. The Trust has advised the Commissioner that as a direct result of one of the recommendations of the Independent Review Report, a Head of Agency Decision Making post was created to deal with the quality assurance function with regard to papers being presented to Adoption Panels. The position holder recalls that [named member of staff] discussed with her what should be included in the guidance for staff on this topic and has advised that she went on to produce the Quality Assurance of Documentation for Presentation to the Adoption Panel dated January 2008 and circulated it as a draft. This document has already been disclosed to the complainant.
21. The Trust has advised that following extensive searches and direct liaison with key officials it is confident that the quality assurance document as referenced in the minutes and subject to this request has not been created. It is the opinion of the Trust professionals most closely involved in this area that the minute referencing the quality assurance document was incorrect and that it should have said, "[named member of staff] was *in the process of planning that a quality assurance document be produced*".
22. The Commissioner notes that it can be difficult for a public authority to "prove" that it does not hold any further information on a particular subject. Having reviewed the evidence, the Commissioner is satisfied that the Trust did conduct a thorough and extensive search for relevant information.
23. The Commissioner is satisfied that, on the balance of probabilities, no information is held in relation to a quality assurance document as referenced at point 4 in the minutes of the Southern Area Adoption Consortium dated 16 November 2007. Therefore the Trust complied with section 1(1)(a) in advising that it did not hold the information.

Right of appeal

24. 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

25. 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.
26. 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

Pamela Clements
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