

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

### **Decision notice**

**Date:** 18 March 2013

**Public Authority:** NHS Norfolk  
**Address:** Lakeside 400  
Broadland Business Park  
Old Chapel Way  
Thorpe St Andrew Norwich  
Norwich  
NR7 0WG

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

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1. The complainant made a freedom of information request to NHS Norfolk ("the Trust") for information regarding personnel issues, governance and management of the Trust. The complainant has not received a substantive response to his request.
2. The Commissioner's decision is that the Trust has breached section 10(1) of FOIA by failing to respond to the complainant's request within 20 working days. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
  - Issue a response in compliance with section 1 of the FOIA or otherwise issue a refusal notice in accordance with section 17 of the FOIA
3. The public authority must take these steps 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 FOIA and may be dealt with as a contempt of court.

### **Request and response**

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4. On 18 May 2012 the complainant made a freedom of information request to the Trust for information regarding the personnel issues,

governance and management of the trust, including information regarding his being referred to the General Medical Council. The request read as follows:

- *The date that [named individual] departed and the date that you arrived as Chief Executive of NHS Norfolk.*
- *The dates of [named individual]'s tenure as Interim Director of Public Health at NHS Norfolk.*
- *[Named individual]'s attendance record at Board, Clinical Executive and Management Executive meetings.*
- *The date when responsibility for the Clinical Governance Team (with the exception of [named individual]) passed from myself to the Chief Nurse.*
- *The dates and attendance record (members and all in attendance) of the Decision Making Group (DMG) from January 2012 until May 2011.*
- *Any and all correspondence from [named individual] in trying to set up quorate meetings of the DMG during this period.*
- *Minutes of the Board to Board meeting with NCH&C which took place I believe in the first few months of 2011.*
- *A copy of the quality assurance Framework (QAF) which is referred to in your letter to the General medical Council (GMC) dated 18<sup>th</sup> April 2012.*
- *Copies of all the documentation you have to date provided to the GMC in respect of your referral of myself on fitness to practice grounds.*
- *Copies of any and all communications from me and/or the Chief Nurse to yourself expressing concerns about the slow progress NCH&C were making in reviewing patient notes at Downham Market Health Centre and requesting your intervention at a Chief Executive to Chief Executive level. Please also provide your documented response to these requests.*
- *The membership of your internal review panel referred to in your letter to the GMC dated 18<sup>th</sup> April 2012 and their professional qualifications please? More importantly can you inform me as to any documented formal training the members of the Panel have undertaken in order for them to have the necessary skills to undertake the review of the "complexity of the issues at the Downham Market Health Centre" and justify reaching their conclusions? Similarly could you provide the same information with regard to those officers who "further reviewed and refined" the recommendations of your internal review panel.*
- *Copies of the record of the Panel's findings and recommendations as they relate to my role as Medical Director of NHS Norfolk.*
- *A copy of the letter sent by [named individual], a Non-Executive member of the NCH&C shadow Board and Chair of the NCH&C Risk*

*Management and Quality Committee to the Chair of NHS Norfolk in July 2010 informing her of his resignation from these positions on account of his concerns over patient safety within NCH&C. Please provide any reference to this letter and the concerns expressed in the minutes of the NHS Norfolk Board, the Clinical Executive Committee or the Executive Management Team along with any documented action taken by NHS Norfolk as a result of these concerns? Please provide a copy of any response made to [named individual].*

- *Copies of any performance notices issues to NCH&C from April 2010 onwards.*
5. On 18 May 2012 the Trust acknowledged receipt of the request. It indicated that the requested information fell both within FOIA and the Data Protection Act 1998. It also indicated that the cost of complying with the request could exceed the appropriate limit although no formal response was given.
  6. On 20 June 2012 the Trust contacted the complainant again to say that given the considerable amount of information requested it would need to exceed the 20 working day deadline for response, as required by FOIA.
  7. On 27 June 2012 the complainant contacted the Trust again to say that he was still seeking the requested information.
  8. On 11 September the complainant contacted the Trust again to express his dissatisfaction at still having not received the requested information. The complainant confirmed that he still wished to receive all the information listed in his freedom of information request but outlined some information which he said could be prioritised if the Trust found this helpful.

### **Scope of the case**

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9. On 11 January 2013 the complainant contacted the Commissioner to complain that the Trust had still not responded to his request.

### **Reasons for decision**

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10. Section 1(1) of the FOIA provides 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.
11. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
12. In this case the complainant made his request to the Trust on 18 May 2012. However, other than the acknowledgment referred to above, the Commissioner understands that at the time of writing the complainant has received no response to his request. Consequently the Commissioner finds that the Trust has breached section 10(1) of the FOIA by failing to comply with its obligations under section 1(1).

## Right of appeal

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13. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

14. 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.
15. 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  
Group Manager, Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**