

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2013

Public Authority: University Hospitals Birmingham Foundation Trust ('UHBFT', 'the Trust')

Address: Queen Elizabeth Hospital Birmingham
PO Box 9551
Mindelsohn Way
Edgbaston
Birmingham
B15 2PR

Decision (including any steps ordered)

1. The complainant has requested information relating to arrangements they believe were in place to transport them from an appointment at Queen Elizabeth Hospital Birmingham to their home.
2. The Commissioner's decision is that, on the balance of probabilities, UHBFT does not hold the information requested.
3. The Commissioner does not require the public authority to take any further action.

Request and response

4. Prior to 4 December 2012, UHBFT treated the complainant's concerns, which he would later raise in his request, as one complaint which it dealt with in line with its complaints procedure, rather than as information requests under the FOIA.
5. On 4 December the complainant wrote again to UHBFT and requested information under the FOIA in the following terms:

- *Consequently, I wish you to provide me with the names and ranks of the two West Midlands Police Officers who posed as QE Patient Ambulance Transport Staff on 14 September 2011.*
 - *In addition, I wish you to provide me with the name and rank of the West Midlands Police Officer who arranged with the QE Hospital for these two WMP Officers to unlawfully pose as members of the QE Patient Ambulance Transport service.*
 - *Additionally, I wish you provide me with the name of the member of the QE Patient Transport Staff who arranged with the West Midlands Police for these unlawful acts of deception to be carried out.*
 - *Who is the QE Hospital solicitor?*
 - *Was the QE Hospital solicitor fully aware of these unlawful actions and did he give his written consent before these events occurred? Please provide me with hard copies of all correspondence, e-mails or faxes regarding this.*
 - *Please provide me with hard copies of the correspondence between all QE Hospital Departments and the WMP regarding this matter irrespective of whether it is in the form of a letter or an e-mail or a fax or even a Post-it note.*
 - *Please forward hard copies of all e-mails relating to this matter which were sent or received by the QE Hospital and the West Midlands Police.*
6. UHBFT responded on 31 December 2012. It disputed that the alleged event had taken place and denied holding the requested information.
7. Following an internal review, UHBFT wrote to the complainant on 2 July 2013. It stated that, following a full investigation, it was satisfied that the events as described by the complainant had not taken place, and that it consequently did not hold the information the complainant had requested.
8. Responding to its duty under the FOIA to provide advice and assistance, UHBT did, however, provide the complainant with the name of its Director of Corporate Affairs.

Scope of the case

9. The complainant contacted the Commissioner on 1 November 2012 to complain about the way their request for information had been handled.

At this stage and up until 4 December 2012, UHBFT was dealing with the complaint in line with its complaints procedure.

10. In response to the complainant's letter to UHBFT on 4 December, the ICO carried out an initial assessment. It deemed the request eligible for formal consideration under s50 of the FOIA and informed the complainant and UHBFT on 26 March 2013.
11. The Commissioner considers the scope of his investigation to be to determine if UHBFT is correct when it states that it does not hold the information the complainant has requested.

Reasons for decision

12. Section 1 (1) (a) of the FOIA states that an authority must confirm *"whether it holds information of the description specified in the request"*.
13. In reaching his decision as to whether UHBFT holds the requested information, the Commissioner considered the investigation carried out by the Trust. Namely its questioning of staff employed by the parties concerned ie Queen Elizabeth Hospital, Ambuline and the West Midlands Police; and its checking of transport and hospital records.

UHBFT reported that no evidence was uncovered that supports the events described by the complainant. Without any evidence to the contrary, the Commissioner has formed the judgement that, on the balance of probabilities, the Trust will therefore not hold any information of the description specified in the request.

Right of appeal

14. 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

15. 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.
16. 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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