

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 August 2013

Public Authority: Lancashire North Clinical Commissioning Group

Address: Jubilee House
Lancashire Business Park
Leyland
PR26 6TR

Decision (including any steps ordered)

1. The complainant requested the costs incurred in refusing to disclose disputed information. The Commissioner's decision is that the public authority did not deal with the request in accordance with the FOIA. This is because the public authority provided its response outside the statutory 20 working days and it has therefore breached section 10(1) of the FOIA. As the requested information has been provided, the Commissioner does not require any steps to be taken.

Request and response

2. On 20 May 2013, the complainant requested information in the following terms:

'This FoI request is for the costs incurred by the PCT in refusing to disclose the disputed information. It will not be possible to obtain a reliable costing for the internal costs of the PCT and I am not requesting these. My request is for the total cost of payments to external bodies, including public bodies and the firm of solicitors and the barrister and any other persons directly assisting with this case, in connection with this case from Summer 2010 to 31.3.13, when the PCT ceased to exist. There will eventually be a further FoI request for the costs to the public of continuing the case beyond 31.3.13.'

Background

3. In April 2011 the Information Commissioner served a decision notice (case reference FS50350093) on North Lancashire Teaching Primary Care Trust (NLTPCT). The complainant appealed the decision to the First-tier Tribunal (Information Rights) and to the Upper Tribunal (Administrative Appeals Chamber). The current request is for costs associated with this appeal process.
4. On 31 March 2013 the NLTPCT ceased to exist and the responsibility for the on-going tribunal case fell to the successor organisation as of 1 April 2013, Lancashire North Clinical Commissioning Group (LNCCG). This was part of the overall changes within the NHS.

Scope of the case

5. On 24 May 2013 LNCCG explained to the complainant that the information was not held and would be provided by the Reviews and Information Team at the Department of Health. On 31 May 2013 LNCCG wrote to say that the LNCCG would be responsible for the FOI request.
6. On 19 June 2013, the complainant contacted the Commissioner to complain about the lack of a substantive response. On 9 July 2013 the complainant stated that LNCCG had disclosed this information to him. The response to the complainant was dated 12 June 2013 but the covering email was dated 28 June 2013. The Commissioner understands that whilst the letter was drafted on 12 June it was not sent out to the complainant until 28 June 2013.

Reasons for decision

7. Section 10 of the FOIA provides that a public authority should respond to a request for information within 20 working days. The Commissioner has found a breach in this case because the public authority did not respond within 20 working days.
8. In reaching this decision the Commissioner acknowledges there was some confusion between the NHS Commissioning Board and LNCCG as to who held the information requested due to the reorganisation of health bodies at this time. However as it was subsequently clear that the information was in fact held by the LNCCG at the time of the request and this information does not appear to have been provided to him until 28 June 2013 this was outside the 20 working days.

Right of appeal

9. 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

10. 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.
11. 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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