

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2014

Public Authority: NHS Bromley Clinical Commissioning Group
Address: 1st Floor
Beckenham Beacon

379 Croydon Road
Beckenham
Kent
BR3 3QL

Decision (including any steps ordered)

The complainant has requested information from the NHS Bromley Clinical Commissioning Group (CCG) relating to money provided by the London Borough of Bromley to Bromley Health Care Community Interest Company Limited for the provision of services. The Commissioner's decision is that the NHS Bromley CCG has correctly handled the complainant's request under FOIA and is not in breach of any section of FOIA. The Commissioner requires no steps to be taken.

Request and response

1. On 18 March 2013 the complainant wrote to NHS South London Commissioning Support Unit (CSU) and requested information in the following terms:

"With regard to the public money the London Borough of Bromley provided to Bromley Healthcare Community Interest Company during the fiscal year 6 April 2011-5 April 2012, I request the following information:

1. The total sum of money Bromley Healthcare Community Interest Company Limited received from the London Borough of Bromley during the fiscal year 6 April 2011-5 April 2012.

2. With regard to each of the Bromley Healthcare services that were funded or part funded with the public money they received from the London Borough of Bromley during the fiscal year 6 April 2011-5 April 2012, I would like information explaining what amount/proportion of the money went to each of the services?
3. A hopefully definitive list detailing and explaining the services that Bromley Healthcare Community Interest Company Limited were to provide in return for the money they received from the London Borough of Bromley during the fiscal year 6 April 2011-5 April 2012.
4. A hopefully definitive list detailing and explaining the services that Bromley Healthcare Community Interest Company Limited *actually* provided in return for the money they received from the London Borough of Bromley during the fiscal year 6 April 2011-5 April 2012.
5. Where the London Borough of Bromley had during the fiscal year 2011-12 provided money to Bromley Healthcare to fund or part fund services that, for any reason, Bromley Healthcare didn't then either provide the service and/or only provided some or part of the services that had been agreed and for which finance had been provided, I would like to be informed of the following;
 - i) What if any service(s) were affected?
 - ii) Why was there a change to the service(s) provision?
 - iii) What happened to the money that should have gone to fund the service(s)?
 - iv) And if the money wasn't returned to the London Borough of Bromley what did Bromley Healthcare Community Interest Company Limited actually spend the public's money on?
2. NHS South London CSU responded to the complainant's request on 21 March 2013, stating that it did not hold the requested information as it related to Bromley Healthcare and the London Borough of Bromley. NHS South London CSU directed the complainant to make his request to one of the above bodies. The complainant sought an internal review of NHS South London CSU's decision on 25 March 2013, at the same time as he directed his request for information to Bromley Healthcare, who subsequently replied stating that they were not a public authority.
3. Following an internal review NHS South London CSU wrote to the complainant on 18 April 2013. That review had been carried out by an appropriate staff member within the NHS Bromley Clinical

Commissioning Group and the letter stated that the complainant's original request had been made at a time of transition within the NHS and the abolition of Bromley Primary Care Trust. The reviewer stated that any requests which would have been made to Bromley Primary Care Trust should now be made to the Department of Health. However, the reviewer considered that the requested information would not have been held by Bromley Primary Care Trust and instead directed that the complainant should make his request to the London Borough of Bromley. The reviewer then provided, as a courtesy to the complainant, some information in response to his request, obtained from Bromley Healthcare, which he believed Bromley Primary Care Trust would have provided had it still been in operation and received the complainant's request.

4. The Commissioner wrote to the Department of Health in order to clarify who had responsibility for responding to the complainant's original request, as the complainant had also written to Bromley Healthcare Community Interest Company Limited (who are not a public authority for the purposes of FOIA) and NHS Bromley Clinical Commissioning Group (who stated that they were not responsible for responding to FOI requests and directed the complainant back to NHS South London CSU).
5. The Department of Health responded to the Commissioner stating that the task of responding to FOI requests rests with NHS South London CSU.
6. The Commissioner contacted NHS South London CSU who confirmed that the task of responding to FOI requests had been outsourced to it by the NHS Bromley Clinical Commissioning Group.
7. For the purposes of this decision notice, however, the NHS Bromley CCG remains the relevant public authority under FOIA.

Scope of the case

8. The complainant contacted the Commissioner on to complain about the way his request for information had been handled. In particular, he wished the Commissioner to ascertain who should have had responsibility for responding to his request for information.
9. The Commissioner has considered the way in which the complainant's request was handled.

Reasons for decision

10. Section 1(1) of FOIA requires a public authority in receipt of a request for information to confirm whether it holds the requested information, and, if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
11. The Commissioner considered whether the NHS Bromley CCG responded to the complainant's request of 18 March 2013 in line with the provisions of the FOIA.
12. The Commissioner found that NHS South London CSU had responded to the complainant on 21 March 2013, confirming that it did not hold the requested information, and directing the complainant elsewhere. Therefore, the Commissioner finds that the NHS Bromley CCG was not in breach of sections 1 or 10 of FOIA as it confirmed within 20 working days of receiving the request that it did not hold the requested information.
13. Section 16(1) of FOIA obliges a public authority to provide advice and assistance to a requestor. The Commissioner finds that such advice and assistance was provided to the requestor in this case as he was directed by NHS South London CSU to the London Borough of Bromley, whom NHS South London CSU considered would have held the requested information.
14. Further, in NHS Bromley CCG's response to the complainant's request for internal review, the reviewer not only directed the complainant to the London Borough of Bromley, but then as a courtesy provided the complainant with some information which it believed would have been provided to him by Bromley Primary Care Trust, had it still been in existence at the time of responding to his request. The Commissioner finds no breach of section 16 in this case.

Other matters

15. In relation to who should have had responsibility for responding to the complainant's request, the Commissioner has confirmed that it is the NHS Bromley Clinical Commissioning Group, however the task of responding to such requests has been outsourced to South London CSU. Therefore, South London CSU was the correct body to respond to the complainant's request in this instance.

Right of appeal

16. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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*.
18. 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

Rachael Cragg
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