

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 April 2014

Public Authority: Hampshire Probation Trust
Address: 1st Floor, Cromwell House
15 Andover Road
Winchester
SO23 7EZ

Decision (including any steps ordered)

1. The complainant requested information about the costs of disciplinary hearings within Hampshire Probation Trust (the 'Trust'). In response the Trust said that it did not monitor or record costs for such hearings.
2. The Commissioner's decision is that, on the balance of probabilities, the Trust does not hold the requested information. He does not require the Trust to take any steps.

Request and response

3. On 20 September 2013 the complainant wrote to the Trust and requested information in the following terms:
"Under the powers of the Freedom of Information Act could I request the costings for disciplinary procedures [sic] within Hampshire Probation please? Could that information cover oral warnings, appeals, stage one and stage two disciplinaries and the various investigations."
4. The Trust responded on 23 October 2013. It stated that it did not hold the requested information.
5. Following an internal review the Trust wrote to the complainant on 29 November 2013. It maintained that the requested information was not held but provided the complainant with the numbers of grievance and disciplinary hearings and appeals up to October 2013.

Scope of the case

6. The complainant contacted the Commissioner on 2 January 2014 to complain about the way his request for information had been handled.
7. The Commissioner has considered whether, on the balance of probabilities, any information is held by the Trust relevant to his request.

Reasons for decision

8. Section 1 of FOIA states 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."

9. The task for the Commissioner here is to determine whether, on the balance of probabilities, the Trust holds any information relevant to the request which it has not disclosed to the complainant. Applying the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.
10. The Commissioner asked the Trust to explain the extent of the search undertaken in order to respond to the request. In reply the Trusts' HR Manager confirmed *"We don't monitor costs. We only record in the system if someone has been subject to disciplinary proceedings."* For this reason, no searches were undertaken as the Trust was certain that it did not collect or record the costs of such hearings.
11. The Commissioner contacted the Trust on 7 April 2014 to ask why it did not monitor the costs of disciplinary proceedings. In reply, the Trust confirmed that it had never collected cost information about these proceedings, but that no specific decision had been taken to not collect this information.

Conclusion

12. The Commissioner considers it reasonable that the Trust does not record the costs of such hearings and also accepts that it is likely that there had never been a suggestion made that these costs should be recorded

separately, hence it had not been necessary for the Trust to make any specific decision to not do so. His conclusion therefore is that, on the balance of probabilities, the Trust does not hold the requested information.

Other matters

13. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his '*Good Practice Guidance No 5*', the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by FOIA, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, it took over 23 working days for an internal review to be completed, despite the publication of his guidance on the matter.

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: GRC@hmcts.gsi.gov.uk

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

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

Jon Manners
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