

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 September 2014

Public Authority: Monitor
Address: Wellington House
133-155 Waterloo Road
London
SE1 8UG

Decision (including any steps ordered)

1. The complainant has requested information about a Board to Board meeting between University Hospitals of Morecambe Bay NHS Trust (UHMB) and North Lancashire Teaching Primary Care Trust (NLTPCT). Monitor stated it did not hold the requested information and based on the submissions provided the Commissioner accepts Monitor's position that the information is not held. He requires no steps to be taken.

Request and response

2. On 17 March 2014, the complainant wrote to Monitor and requested information in the following terms:

"1. In May-June 2010 the herein designated 'Halsall Letters' were written. These consisted of letters between Tony Halsall [TH], the University Hospitals of Morecambe Bay NHS Trust [UHMB] Chief Executive and Janet Soo-Chung [JSC], then North Lancs. Teaching Primary Care Trust [NLTPCT] Chief Executive along with a report prepared for NLTPCT Board:

- i. Letter from JSC to TH dated 5.5.10*
- ii. Report related to (i) prepared for NLTPCT Board meeting of 26.5.10*
- iii. Letter from JSC to TH dated 27.5.10*
- iv. Letter from TH to JSC dated 28.5.10*
- v. Letter from JSC to TH dated 3.6.10*
- vi. Letter from TH to JSC dated 14.6.10*

2. Several times within these documents reference is made to the 'forthcoming Board to Board meeting' between UHMB and NLTPCT.

3. This FOI request is for the full text of documents, emails and calendar/diary entries referring to this 'Board to Board' meeting. The request does not include the documents listed in (i) to (vi) above. The meaning of 'full text' is obvious where documents, reports, letters etc. are concerned. In the case of emails, I define 'full text' to mean the entire email thread as recorded, going as far back as possible in the records available to Monitor. In the case of calendar/diary entries, I define 'full text' to mean the entire entry which refers to the meeting along with the appropriate calendar/diary entry for any person recorded as being related to the meeting, if those other entries are recorded information available to Monitor."

3. Monitor responded on 14 April 2014 and stated the requested information was not held. Following an internal review Monitor wrote to the complainant again on 14 May 2014 and upheld its decision that no information was held.

Scope of the case

4. The complainant initially contacted the Commissioner on 14 April 2014 to complain about the way his request for information had been handled. Following an internal review, the complainant wrote again to the Commissioner on 12 June to complain about the response from Monitor that no information was held.
5. The Commissioner considers the scope of his investigation to be to determine if the information requested by the complainant is held by Monitor.

Reasons for decision

Section 1

6. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
7. The request was for the full text of documents referring to a 'Board to Board' meeting between UHMB and NLTPCT which was supposed to take place in 2010. This meeting was referenced in letters which have been

described by the complainant as the 'Halsall letters' and were released as a result of previous FOI requests to public authorities and a Tribunal decision. These letters refer to "*a formal Board to Board meeting would be a useful step forward*" and "*a robust debate at our future Board to Board meeting.*" This meeting would have been between the Boards of UHMB and NLTPCT.

8. Monitor has explained that any documents it would hold in relation to this matter would be held in connection with its function of assessing applications by NHS Trusts to become NHS Foundation Trusts which, in 2010, UHMB was applying for.
9. In determining whether any information on this Board to Board meeting was held Monitor explained that it undertook a search of electronic folders in its IT network that would be likely to contain potentially relevant documents. This search included checking documents from the original UHMB assessment and its later reactivation in 2010. The only documents found from this search were the 'Halsall letters'.
10. Monitor also asked members of the original assessment team to review their email inboxes for relevant documents. This resulted in the production of one email from UHMB containing the 'Halsall letters' and a document detailing other meetings around this time but not reference to the Board to Board meeting or anything similar.
11. As part of the internal review process, a member of the Assessment Directorate who had not been involved in the FOI request up until this point, conducted a further manual search of another folder. This involved using the search terms "Board", "Board to Board", "Halsall" and the name of the Chief Executive of NLTPCT at the time. Any documents returned from this search were then interrogated to look for references to the Board to Board meeting which is the subject of this request. No references were found in any of these documents.
12. Monitor went on to ask the original assessment team to conduct a further search of their emails resulting in no documents referencing this meeting.
13. Following the Commissioner's correspondence with Monitor it undertook another search involving the Legal Services directorate which is responsible for managing FOI cases and holds records of material relating to FOI requests. A search was conducted of folders and all documents held by the Legal team in relation to requests made by the complainant about UHMB's assessment were searched. Documents which may have contained relevant references were identified then manually checked for any mention of the Board to Board meeting.

Monitor has stated that no reference to the Board to Board meeting was found other than in the 'Halsall letters'.

14. Based upon the submissions provided the Commissioner is satisfied that the searches carried out by Monitor were appropriate and thorough. The searches were focused on the directorates and areas of Monitor where issues relating to UHMB's assessment were dealt with and the search terms used were broad enough to have resulted in the identification of relevant information. In addition to this, Monitor has manually checked any documents returned from searches in order to ensure no relevant references were contained.
15. In reaching a conclusion on this matter, the Commissioner has also been mindful of the fact that Monitor has stated there would be no business reason to hold the requested information. If such a Board to Board meeting took place it would not have expected to attend or to be provided with any information on the meeting. Monitor does accept that it can sometimes hold documents it receives as part of the assessment process which incidentally refer to meetings or other events which are outside of the scope of the assessment process but in this case the searches it has conducted have not found any reference, even incidental, to this Board to Board meeting.
16. The Commissioner has therefore concluded that as Monitor had no reason to be involved in this kind of meeting and has searched for any references to it in the documents it holds relating to the assessment process with no results, on the balance of probabilities any reference to Board to Board meetings is not held by Monitor under section (1)(1)(a) of the FOIA.

Right of appeal

17. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

18. 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.
19. 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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