

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 May 2015

Public Authority: Derbyshire Healthcare NHS Foundation Trust

Address: Kingsway Hospital

Kingsway

Derby

DE22 3LZ

Decision (including any steps ordered)

1. The complainant has requested information from Derbyshire Healthcare NHS Foundation Trust ('the Trust') about its Psychotherapy Service Team Leader position. The Trust first said it was withholding the relevant information it holds as it is the personal data of a third person. It then said it did not hold the specific information the complainant had requested. During the course of the Commissioner's investigation, the Trust released to the complainant relevant information that it holds. The complainant is not satisfied that the Trust has disclosed all the information that it holds that relates to her request.
2. The Commissioner's decision is that the Trust has disclosed all the information that it holds that falls within the scope of the request and has met its obligations under section 1 of the FOIA (right to access information).
3. The Trust did, however, take longer than 20 working days to disclose this information and has therefore breached section 10 (time for compliance).
4. The Commissioner does not require the Trust to take any further steps.

Request and response

5. On 26 January 2015, the complainant wrote to the Trust and requested information in the following terms:

"Please could you provide me with details of the qualifications expected for the position of Team Leader of the Derbyshire Psychotherapy service, part of Derbyshire Healthcare NHS Foundation Trust?

What guidelines and policies are in place for this role (Team Leader of Derbyshire Psychotherapy service)?

and what training and experience are staff required to have for it?

I believe this information is in the public interest to know and is suitable for general public knowledge about a public serving public body.

Please reply by either email or post- details are below."

6. The Trust responded on 3 February. It did not cite the relevant exemption under section 40(2) of the FOIA but said it was withholding the information it holds – a job description – as it is the personal data of a third person.
7. The complainant told the Trust that they were requesting the general qualifications needed for this particular role and not the job description. Following an internal review the Trust wrote to the complainant on the same day – 3 February. It now said that it did not hold the requested information.
8. During the course of the Commissioner's investigation, the Trust volunteered to release to the complainant the information it holds which it considers falls within the scope of the request, ie the job description. It released this to the complainant on 25 March.

Scope of the case

9. The complainant contacted the Commissioner on 3 February to complain about the way her request for information had been handled. Specifically she is not satisfied with apparent inconsistencies in the way that the Trust initially dealt with her complaint and the relevance of the information that the Trust disclosed. She also considers that it has not released information related to all elements of her request.
10. The Commissioner has focussed his investigation on whether, on balance, the Trust has disclosed to the complainant all the relevant information that it holds. He has also considered the Trust's handling of the request overall.

Reasons for decision

11. **Section 1** of the FOIA says that anyone making a request for information to a public authority is entitled to be informed whether the public authority holds the information and, if so, to have that information communicated to them.
12. The Trust has provided to the Commissioner the background to the case, which informed how it initially responded to this request. It is summarised in a confidential annex.
13. Having sought other information from relevant teams within the organisation and found nothing, the Trust has confirmed that the job description it released to the complainant is the only information that it holds that falls within the scope of her request. It has explained that retention of job descriptions generally have been centralised in a recording system that only dates back to 2010. If staff were in post before then, the Trust relies on individuals producing their own copies of their job description, which is what happened in this case.
14. The Trust says it does not hold any policies that apply to this post alone and that Trust staff are expected to conduct themselves in accordance with all Trust policies. It has noted that the qualifications for the post are included in the job description's person specification.
15. The Commissioner is convinced by the Trust's explanations and is satisfied that, on the balance of probabilities, it does not hold any further information that is relevant to the complainant's request.
16. **Section 10** of the FOIA says that a public authority must respond to a request for information no later than the twentieth working day following the date of receipt.
17. The complainant submitted their request on 26 January and received a response on 25 March, which is well in excess of 20 working days.

Right of appeal

18. 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

19. 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.
20. 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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