

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 October 2016

Public Authority: Airedale NHS Foundation Trust
Address: Airedale General Hospital
Skipton Road
Steeton
Keighley
West Yorkshire
BD20 6TD

Decision (including any steps ordered)

1. The complainant requested information on car parking funds. The Airedale NHS Foundation Trust (the Trust) provided some information and confirmed that they did not hold any further information. The complainant considered that more information must be held. The Information Commissioner's decision is that, on the balance of probabilities, the Trust does not hold any further information in this case. The Commissioner does not require the Trust to take any steps.

Request and response

2. On 21 December 2015 the complainant requested the following information:
 - *The total monies collected by the Airedale Hospital car parks during each of the years 2015, 2014, 2013.*
 - *The destination(s) with figures per destination of those monies each year*

- *The use made each year of those monies – capital expenditure in the car parks, purchasing improved parking security, creating better sighting-lines etc.'*
3. On 28 January 2016 the Trust provided a response to the first question detailing the total monies collected for each year from staff and visitor parking. The Trust also explained that the destination of the funds was to the Trust to cover car park management and security and that the Trust is investing £200k in improved parking in 2016/17.
 4. On 29 January 2016 the complainant stated that the third question had not been answered as the Trust had only provided information about future investment. He asked for details on staffing costs, capital expenditure and improved security measures for each of the 3 years.
 5. On 11 February 2016 the Trust provided a more detailed breakdown of car parking related income and expenditure.
 6. The Trust explained that it did not hold information on wages as the security and car parking service was contracted out during the period. The Trust supplied the contract value for each year, details of capital investment (road surfacing upgrade, additional car park in 2014/15, surface upgrades, lighting etc).
 7. On the same day (11 February) the complainant asked for some clarification on 'surface upgrades', the difference between the figures provided for income and the expenditure leaving a balance of about £1.3m and referred to the signs in the car park that the money raised is only used on the car parks.
 8. On 12 February 2016 the complainant requested further details about the response. The Trust responded on 22 February stating that it had initiated the complaints procedure.
 9. On 23 February 2016 the complainant requested an internal review.
 10. On 16 March 2016 the Trust provided further information, explaining that the Trust *'is not a profit making organisation and all money received from parking is used to improve patient experience including parking, security and upgrades.'*
 11. On 18 March 2016 the complainant disputed this 'bizarre internal review' response:

'You state that "all money received from parking is used to improve patient experience including parking, security and upgrades". This differs markedly from the signs in the car parks which in effect ring-

fence all such monies for car park security and maintenance only. So, which is it?...

What has happened to the ring-fenced £1.3 million balance of the parking income of the past three years, a number I reach from YOUR figures?'

12. On 13 April 2016 the complainant wrote to the Commissioner. The Commissioner wrote to the Trust on 5 May 2016 recommending that an internal review be provided. The Trust did not reply to the Commissioner or the complainant. The Commissioner wrote again to the Trust on 13 June 2016 to confirm that the case had been accepted for investigation. On 10 August the Commissioner sent initial investigation letters to both the Trust and the complainant.
13. On 7 September 2016 the Trust revisited the request. The Trust sought a resolution with the complainant as it had not attempted to withhold any information under FOIA and that all monies were appropriately spent and accounted for:

'We believe we can reassure you that all income from car parking charges at Airedale NHS Trust has been appropriately spent and accounted for...the Trust has no intention of withholding relevant data from you or from the wider public

14. The Trust stated that the funds from the car parking fees are not 'ring-fenced':

The Trust does not intend by its car park signage to indicate that all car park income is ring-fenced for car park security and maintenance... For clarity the sign reads, "Income generated by car parking charges help to fund and enhance security services on this site".

15. The Trust stated that it is not possible to match the income and expenditure of the funds from the car parking fees:

'Monies from car parking go back into paying for a variety of patient services. To provide a breakdown of exactly where is not possible. In order to match income to outgoings, it is necessary to refer to the public accounts which are available to all at <http://www.airedale-trust.nhs.uk/about-us/publications/annual-report/>'

16. The Trust stated that the purpose of FOIA is to provide recorded information and not to provide comment on decisions made. The Trust suggested that the complainant may wish to consider becoming a Trust Member which would give him the opportunity to express his views on how the Trust is run:

'the purpose of FOI is to provide the public with recorded information and not to offer comment on the appropriateness or otherwise of decisions made'

17. On 15 September 2016, the Commissioner wrote to the complainant to seek an informal resolution as the Trust had re-assessed the request and provided a further response. The Commissioner's initial view was that there was no further recorded information that the Trust could provide on this issue.
18. On 19 September 2016 the complainant disputed this and stated that he had not received information on his request *'regarding the balance of £1.3M car park income'* and wished to continue with the complaint.

Scope of the case

19. The Commissioner considers that the scope of the case is whether the Trust has complied with section 1 of the FOIA.

Reasons for decision

20. Section 1 of the 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 within the scope of the request, and if so, to have that information communicated to him.
21. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.
22. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
23. As is the practice in a case such as this, the Commissioner asked the Trust a number of questions to confirm/establish if further information is held.
24. In response to the Commissioner's questions about the location of the information, the Trust confirmed that it did not hold any further recorded information falling within the scope of the request:

- The Trust's position is that any data relevant to the applicant's FOIA request has been supplied during the FOIA process and the Trust holds no other relevant data.
25. The Commissioner asked the Trust a number of questions to establish what searches had been carried out for information falling within the scope of the request.
26. The Trust explained that:
- searches were made of the Trust Financial Ledger, Capital Record and Capital Forecast and individual (scanned) invoices where deemed they could contribute. These records were searched as they are the only likely locations where the requested data would be held if available.
 - The data relevant to this request is held centrally in digital format in a secure Trust network location.
 - Search terms included: car parking income, parking infrastructure, maintenance. The data held regarding Trust revenue from the car parking facilities is held under the terms listed.
27. The Commissioner asked questions on whether any recorded information ever held relevant to the scope of the request had been destroyed. The Trust answered:
- No – the data requested is within recent timescales and all such data is processed and held digitally within the Estates and Finance departments.
28. The Commissioner asked if recorded information was held but is no longer held, when did the Trust cease to retain this information. The Trust answered:
- The relevant data is still held as it is sufficiently recent to require ongoing retention as per corporate record keeping standards.
 - All relevant data required to be held as per the Trust Corporate Records retention schedule. The Trust holds its corporate records in line with the NHS Records Code of Practice, which stipulates the required timeframes. The Internal Audit process provides assurance that it is meeting these requirements. (A copy of the Document Retention Guideline was provided to the Commissioner)
29. The Commissioner asked about the business purpose (and any statutory requirements to retain) for which the requested information should be held:

- The Trust holds the information in line with national NHS accounting standards. The accounts are audited each year by external auditors to ensure that they are prepared to those rules and no concerns have been raised.
 - The Trust holds its corporate records in line with the NHS Records Code of Practice, which stipulates the required timeframes. The Internal Audit process provides assurance that it is meeting these requirements.
30. Having considered the Trust's responses to the Commissioner's investigations, the Commissioner is satisfied that, on the balance of probabilities, the Trust does not hold any further recorded information within the scope of the request. The Trust provided answers to the original requests and stated that the public accounts do not provide a breakdown to match income from the car parking funds to outgoings.
31. The Commissioner understands the reasons why the complainant considers further information may be held, but the Commissioner can only consider what is held. It is outside the Commissioner's remit to determine if it should be held, and even if it should be, he cannot require a public authority to create the information under the FOIA.
32. As the Commissioner's decision is that the information is not held, the Commissioner does not require the Trust to take any steps.

Right of appeal

33. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

34. 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.
35. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF