

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 August 2016

Public Authority: Commissioner of the Metropolitan Police Service

Address: New Scotland Yard
Broadway
London
SW1H 0BG

Decision (including any steps ordered)

1. The complainant has requested information concerning any "partnerships" that the Metropolitan Police Service (the "MPS") has with NHS services within the London Borough of Bromley. The MPS provided some information but advised that it was unable to provide anything else without further clarification from the complainant. The Commissioner's decision is that the MPS has properly relied on section 1(3) of FOIA to require clarification. However, as the MPS failed to provide its response within 20 working days it breached section 10(1).

Request and response

2. On 15 March 2016 the complainant wrote to the MPS and requested information in the following terms:

"I write to request information in relation to the Metropolitan Police Service's 'partnership(s)' with the National Health Service (NHS).

My FOIA specifically relates to the MPS 'partnership(s)' with the National Health Service (NHS) services within the London Borough of Bromley.

By NHS services I am referring firstly to individuals and organisations such as NHS General Practitioners and other surgery staff, NHS Bromley Primary Care Trust's [sic], Bromley Clinical

Commissioning Groups, NHS Hospital Trust's [sic], NHS Community Mental Health Trusts, (and if there are any NHS Dentists) and or the staff members, employee's [sic], administration, management and other NHS 'holders of public office' etc. of each of those NHS services.

Secondly in addition to those NHS services within the Bromley area there are a number of other NHS commissioned services, such as community health services (e.g. occupational therapists, physiotherapists, district nurses etc) provided by least [sic] one Community Interest Company Limited that was at one time and I believe are still be [sic] trading under the name of 'Bromley Healthcare', Community Interest Company Limited.

Thirdly, in additional to all the above examples, I understand staff members, employee's [sic], administration, management and other NHS 'holders of office' etc. of those services can and evidently do share data / information with each other and also share information with the Council (London Borough of Bromley), sharing which is, or is supposed to be, carried out inline [sic] with a number of Acts of Legislation (e.g. Data Protection Act, Social Care Act, Human Rights Act etc).

As it may hopefully help the MPS in both responding and possibly limit the amount of information I only at present require information from 01 April 2000 (as the 01 April has for many, many years effectively been the National Health Services 'new year' start date) through to the present day.

I request information that explains the following:

- 1. Information that explains the 'partnership(s)' the MPS had in the past (from 01 April 2000) and including those the MPS has to the present day with the National Health Service, services (including staff members, employee's [sic], administration, management and other NHS 'holders of public office' etc.) within the London Borough of Bromley.*
- 2. The purpose(s) of the 'partnership' and / or partnership(s) between the MPS and NHS services etc. within the London Borough of Bromley?*
- 3. The benefit(s) the MPS (as an organisation) and / or its own officers, staff members, 'holders of public office', and other employees gain, or can potentially gain, from the MPS' 'partnership(s)' with NHS services (including those gained from staff members, employee's [sic], administration, management and*

other NHS 'holders of public office' etc. of those NHS services / organisations) within the London Borough of Bromley?

4. The grace, fear or favour benefit(s) afforded by the MPS to NHS services, including any afforded to staff members, employee's [sic], administration, management and other NHS 'holders of public office' etc. directly and / or indirectly employed and / or retained by the NHS service and other NHS commissioned health services and organisations.

5. The benefit(s) the NHS services (including gained by staff members, employee's [sic], administration, management and other NHS 'holders of public office' etc. directly and / or indirectly employed or commissioned by the NHS) have over the years gained and / or indirectly gained from their partnership(s) with the MPS.

6. The benefit(s) residents of the London Borough of Bromley and / or members of the public gain and / or should have gained from the MPS and NHS partnership(s).

7. Where there is any, copies of the substantive, verifiable evidence supporting any benefit(s) the MPS know, think or believe residents and / or members of the public gain or have gained from the MPS' 'partnership(s)' with the NHS services and / or from the MPS' 'partnership(s)' with staff members, employee's [sic], administration, management and other NHS 'holders of public office' etc. directly and / or indirectly employed / retained by the NHS service and other NHS commissioned health services and organisations etc. within the London Borough of Bromley

If you want or need me to clarify or explain any issues raised herein please contact me ...

I would prefer that any documents are provided to me as a paper copy, however, if any of those documents quoted form or referenced are accessible to me via the internet then please provide me with the precise internet / website URL address.

I also ask that clear and precise reference (including section, page number and paragraph details etc.) is given to any relevant sections, page numbers and paragraphs etc. referenced or quoted in your reply."

3. The MPS acknowledged the request on 23 March 2016.
4. Having received no substantive response the complainant requested an internal review of the handling of his request on 24 April 2016. This was acknowledged by the MPS on 3 May 2016 and a response to this issue was sent on 6 May 2016 apologising for the delay.

5. On 27 May 2016, outside the time for compliance, the MPS responded to the request. It provided an internet link to the Safer Bromley Partnership ("SBP") on the London Borough of Bromley website and, in respect of anything further, stated:

"The MPS has been unable to locate information in response to each part of your request for information. The MPS will therefore require further information from you to assist it in answering your request. I have provided advice in response to each part of your request below".

6. The MPS advised that the aims and objectives of the SBP were on its website, it explained that it could only consider disclosure of recorded information held at the time of the request and it added that it was not required to provide subjective answers.
7. The complainant wrote to the MPS again on 6 June 2016 to request an internal review. He clarified:

"My request ... was and is in relation to the partnership(s) the MPS have and have had with the National Health Service (NHS) within the London Borough of Bromley.

Whereas the MPS' response, what there is of it, is it seems information relating to the London Borough of Bromley, the Council / Local Authority itself.

While I had in my FoIA mentioned the London Borough of Bromley in my FoIA I did so because Bromley is the Borough within which I live and because I thought limiting the amount of information to the MPS' partnership(s) with the NHS within my local Borough (Bromley) may also have helped limit the amount of information the MPS may have had to locate, collate and provide.

For all I know each and every NHS organisation, service provider, Trust or Commissioning body etc. within each of the other 30+ London Boroughs may have entered into huge numbers of different partnership agreements with the MPS."

8. Following an internal review the MPS wrote to the complainant on 13 June 2016. It maintained its position.

Scope of the case

9. The complainant wrote to the Commissioner on 16 June 2016 to complain about the way his request for information had been handled.

10. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the FOIA. The FOIA is to do with transparency of information held by public authorities. It gives an individual the right to access recorded information (other than their own personal data) held by public authorities. The FOIA does not require public authorities to generate information or to answer questions, provide explanations or give opinions, unless this is recorded information that they already hold.
11. The Commissioner will consider the delay below. She will also consider the MPS's handling of the request and whether it was handled appropriately based on the wording of the request.

Reasons for decision

Section 1 – general right of access Section 16 – advice and assistance

12. Section 1(1) FOIA states 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 him.
13. Section 1(3) FOIA provides that where a public authority reasonably requires further information in order to identify and locate the requested information and it requests this from the applicant, it need not comply with section 1 until the further information is supplied. The Commissioner's approach is to expect that a public authority will seek clarification of a request where its meaning is not clear, or where its meaning is capable of more than one objective reading.
14. The opening wording of the complainant's information request sets the scene for what he requires, namely: "*information in relation to the Metropolitan Police Service's 'partnership(s)' with the National Health Service (NHS)*", subsequently qualified with the addition of the wording that it "*specifically relates to the MPS 'partnerships' with the National Health Service (NHS), services within the London Borough of Bromley*".
15. To assist with her determination, the Commissioner therefore asked the MPS to define what it understood by the term "partnership" as this term is central to the wording of the complainant's request. It advised her:

"The MPS definition of a partnership is "an agreement with an external body to achieve common objectives". Partnerships take many forms and require different governance structures".

16. It is therefore apparent to the Commissioner that the MPS has a clear basis on which to start a search for any information it may hold. She will now consider the remaining wording of the request and whether it is open to interpretation.
17. The Commissioner read the request as seeking information held in respect of any "partnership" agreements between the MPS as a whole and the NHS Services in Bromley. Having discussed this view with the MPS she was advised that, were this the correct interpretation, such information may be held in any business area of the MPS rather than solely in its Bromley Division. She also understands that a search for details of any such "partnerships" would necessitate the MPS contacting all its business areas to ascertain whether any "partnerships" exist as it has no central point of contact for such information. If the complainant is only concerned with Bromley itself then this may not of course be what he requires and could result in unnecessary work being undertaken by the MPS.
18. The Commissioner next sought to ascertain the MPS's interpretation of the request in order to justify why it needed further clarification. It advised the Commissioner as follows:

"... the Information Managers understanding of [the complainant]'s request was for information regarding MPS Bromley and NHS Bromley as [the complainant] stated "My FOIA specifically relates to the MPS 'partnership(s)' with the National Health Service (NHS), services with the London Borough of Bromley"."

19. To comply with the request using this interpretation would only necessitate liaison with its Bromley Division, which the Commissioner understands to have taken place. This evidences that the same statement by the complainant is open to two objective readings. The Commissioner therefore accepts that the MPS's view that it is ambiguous.
20. In discussions with the MPS the Commissioner was advised as follows:

"Bromley Police have no specific partnership agreement with the NHS however they do have an Information Sharing Agreement with The Safer Bromley Partnership (SBP) which includes Bromley Borough Police, Bromley Council, Bromley Probation Service, Bromley Primary Care Trust, London Fire Brigade, London Ambulance Service, Affinity Sutton Housing Association and The Metropolitan Police Authority. As the request was unclear the Information Manager sent details of the SBP including a link to the site however clearly stated that "beyond the information that has been published upon the London Borough of Bromley website,

please set out the type of information you would like to receive in connection with this part of your request?".

21. The Commissioner therefore understands that the MPS forwarded to the complainant details of the SBP as this is the only "partnership" which is specific to Bromley Police and the NHS services in Bromley, albeit that it is not specifically a "partnership" between those parties in isolation. With this in mind, it seems reasonable to the Commissioner that the MPS would require more details from the complainant.
22. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request.
23. The Commissioner discussed the complaint with the MPS and asked it to consider its duties under section 16. It explained that the complainant:

"... was asked on two separate occasions ... to clarify exactly what information he required. On both occasions [the complainant] was given a name, contact phone number and email address for the Information Manager dealing with his request unfortunately he failed to contact the Information Manager to explain exactly the information he required. Without clarity it is difficult to proceed with a request as the MPS could spend a lot of time searching for information which [the complainant] did not require which would not be helpful to him or the MPS and in fact could have potentially frustrated him further.

[The complainant] was provided with a deadline to contact the MPS regarding clarification, he was clearly advised that if we did not receive clarity by the 24th June 2016 then we would assume that he no longer wished to proceed with his request and it would be treated as withdrawn. [The complainant] failed to contact the MPS therefore the case was closed on the 27th June 2016.

Under our section 16 obligation, the Information Manager provided [the complainant] with a link to Safer Bromley Partnership to try and be helpful and stated - "Beyond the information that has been published upon the London Borough of Bromley website, please set out the type of information you would like to receive." ...

Under the section 16 guidance it clearly states - "where further clarification has been sought and the applicant has not responded, the force may close off the request" it further states "If advice and assistance has been provided and the force is still unable to identify and locate the requested information, the force is not expected to seek further clarification".

24. In the Commissioner's view, if the MPS had explained what it interpreted the term "partnership" to mean (or instead asked the complainant specifically to clarify what he meant by it) and also given a clearer explanation about how it had interpreted his request then this may have allowed the complainant to re-word or re-focus his request. In addition, it could have explained that this is the only "partnership" which directly involves Bromley Police and Bromley NHS services. Instead the MPS only provided a link to the partnership agreement, which refers to these two parties, but without any further explanation.
25. Whilst in the Commissioner's opinion the MPS could therefore have included a clearer explanation in its correspondence with the complainant, she also notes the comments made in its response in paragraph 23 above, evidencing that the MPS did attempt to further engage with the complainant either in writing or by phone.
26. In his complaint to the Commissioner the complainant states:

"I haven't written to the MPS again, nor have I telephoned them. I haven't done so because I believe the MPS have had more than enough time to have dealt with my FoIA, if the MPS were confused by my initial 15 March 2015 [sic] FoIA then I believe my clarification letter dated the 06 June would, or should have resolved the matter".
27. Clearly the complainant believes his request is clear whereas, as shown above, the MPS does not. Whilst the Commissioner does not find the explanations given to the complainant to be very helpful, she does however note the MPS's offer to further engage in an effort to assist him. She also notes that the MPS provided details of the only formal partnership which it could locate, as per its interpretation of the request.
28. The MPS has evidenced its efforts to engage with the complainant in order to try and further assist him with his request. As the complainant has failed to do so, and his request is found to be open to interpretation, the Commissioner therefore finds no breach of section 16.

Section 10 – time for response

29. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
30. The request was submitted on 15 March 2016 and the complainant did not receive a substantive response from the MPS until 27 May 2016. The Commissioner therefore finds that the public authority has breached

section 10(1) by failing to comply with section 1(1)(a) within the statutory time period. This delay will be recorded.

Other matters

31. If the complainant chooses to make a clarified request based on the findings in this decision notice then the MPS should deal with it as a new request.
32. If the MPS considers that some parts of an information request do not comply with section 8 of the FOIA, ie they are not valid requests for information but are subjective and seek answers to questions rather than recorded information, it should clearly state this to the requester.

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: 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

Carolyn Howes
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