

**Freedom of Information Act 2000 (FOIA)
Decision notice**

Date: 22 June 2017

Public Authority: The Care Quality Commission
Address: Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA

Decision (including any steps ordered)

1. The complainant has requested information relating to a contract and/or business plan between all sections of the welfare/health and social care system. The complainant also requested whether reports are redacted before they are published on the Care Quality Commission's (the CQC) website.
2. The Commissioner's decision is that the CQC does not hold the requested information.
3. The Commissioner does not require any steps to be taken as a result of this decision notice.

Request and response

4. On 18 November 2016, the complainant wrote to the CQC and requested information in the following terms:

"Please clarify whether or not there is an existing contract and/or business plan between all sections of the welfare/health and social care system, (for example including but not limited to, between .. local authorities, medical, hospitals, homes and care providers, CQC and/or the Court of Protection and Public Guardian), all of which work together as one entity and therefore would not be independent, impartial and/or fair and if there are conflicts of interests. Please also inform if the same reports and information provided to the public are the same as those held within the system and/or if there has been editing before releasing redacted versions to the public domain."
5. The CQC responded on 2 December 2016 and denied holding the requested information.

6. Following an internal review the CQC wrote to the complainant on 1 February 2017 and maintained its original position.

Scope of the case

7. The complainant contacted the Commissioner on 1 February 2017 to complain about the way her request for information had been handled.
8. The Commissioner considers the scope of this case is to determine whether the CQC is correct when it says that it does not hold the requested information.

Reasons for decision

Section 1 – general right of access

9. Section 1(1) of FOIA says that an individual who asks for information from a public authority is entitled to (a) be informed whether the authority holds the information and (b) if the information is held, to have that information communicated to them.
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – in accordance with a number of First-Tier Tribunal decisions – applies the civil standard of the balance of probabilities.
11. With regard to the first part of the request, the CQC has confirmed that it did not perform any searches because it is self-evident that such a document does not exist. It explained that such an agreement (that all sections of the health and social care sectors would work together as a single entity) would fundamentally and comprehensively change the way in which care services are delivered in the United Kingdom.
12. The CQC further explained that its Deputy Chief Inspector for Adult Social Care (who provided the initial response to the request), is responsible for the CQC's adult social care inspection teams in London and throughout the South of England, and has extensive experience in the sector and is the CQC's relationship holder with a range of stakeholder and partner organisations. The CQC confirmed that its Deputy Chief Inspector for Adult Social Care is therefore well placed to ascertain that there is no contract and/or business plan of the type described in the information request, and therefore

conducting any search of the CQC's records to attempt to locate such a document would be an inappropriate and disproportionate use of public resources.

13. The Deputy Chief Inspector for Adult Social Care did provide advice and assistance by informing the complainant that the functions of public authorities are established by laws and regulations, and that groups of organisations may work together in accordance with published agreements. These various agreements (memoranda of understanding etc. between various organisations) do not meet the description of a single, over-arching agreement that was the subject of the complainant's information request.
14. With regard to the second part of the complainant's request, the CQC has confirmed that it is also well within the scope of the Deputy Chief Inspector for Adult Social Care's expertise to confidently advise that such redaction does not take place. The CQC has explained that the Deputy Chief Inspector for Adult Social Care is the senior manager responsible for the inspection teams that produce these reports and is intimately involved in the process and practice of their drafting, finalising and publication.
15. The CQC added that it is required to prepare reports of its inspections under section 61(2) of the Health and Social Care Act 2008 (the Act). Section 61(3) requires that "The Commission [CQC] must publish a report prepared under subsection (2)". The CQC has stated that the Act does not make any provision for the redaction of such reports, therefore it is the CQC's view that it would not lawfully be permitted to redact them for publication. It is a legal requirement that the reports provided to the public must be the same as those held on its systems.

Conclusion

16. Having considered the response from the CQC, it is the Commissioner's view that, on the balance of probabilities, the CQC does not hold the information requested.

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