

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2021

Public Authority: Midlands Partnership NHS Foundation Trust
Address: Trust Headquarters
Corporation Street
Stafford
ST16 3SR

Decision (including any steps ordered)

1. In an eight part request, the complainant has requested a variety of information from Midlands Partnership NHS Foundation Trust ('the Trust'), broadly about particular staffing arrangements. The Trust has addressed the majority of the questions and advised that it holds no information within scope of question 1 and parts of question 8. The complainant considers the Trust holds information relevant to question 1.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Trust does not hold information within scope of question 1 and has complied with section 1(1)(a) of the FOIA.
 - The Trust breached section 10(1) as it did not comply with section 1(1) promptly, and within 20 working days.
3. The Commissioner does not require the Trust to take any remedial steps.

Request and response

4. In the course of an ongoing correspondence with the Trust, on 4 August 2020 the complainant requested information in the following terms:

“Under the FOIA please provide the following information;

1: How many Mental Health Nurses or administration Staff (Separate the two please) were provided to SP for the Lichfield Police Station duties between October 2014 and the date the process ceased in 2017; were the duties by way of ‘Secondment’ ‘Full or Part Time’ deployment.

The answers provided in FOI/2987 indicate the process ceased in 2017 however it is not clear if the process ceased at the Lichfield Police Station or ceased entirely.

2: Please provide confirmation that the process ceased altogether in 2017 or if it continued then from which location did it operate; did the process involve the same ‘Staff’ or ‘Team’ as that used within the Lichfield Police Station and who from the Police acted as the immediate liaison between the two organisations. (Only the Post or Position is required)

The response concerning the funding arrangements for the above described process at Q3 within FOI/2987 is not compatible with the public statements made by the OPCC.

3: Between October 2014 and 2017 did the NHS ‘Trust’ receive any monies from SP or the OPCC to facilitate this process and if so please disclose the amounts of monies, and the dates received?

4: Does the ‘Trust’ currently receive funding from the OP&FC or SP for services connected to Mental Health and if so is this a ‘Contract of Service’ or other process.

5: If the answer to Q4 is yes then what is the amount of funding received:

6: Please provide the legal authority and or legislation employed for the process used between October 2014 and 2017 for example MASH or other protocol?

7: If MASH was used then how was ‘True’ and ‘informed’ consent obtained considering the persons involved were considered to be ‘Vulnerable’?

8: Between October 2014 and the undisclosed month in 2017 how many persons had their medical records accessed as the result of Police requests under the following categories;

A: MASH:

B: Other Protocol:

C: Direct request by email, letter or verbal communication from any Staff from SP or OPCC outside of (A) & (B)''

5. On 2 September 2020 the complainant received correspondence from the Trust's legal team. In that correspondence the Trust appears to suggest that it did not consider it appropriate to deal with the complainant's "correspondence" under the FOIA. The Trust then summarised and provided a response to a series of questions that did not appear to relate to the complainant's request of 4 August 2020.
6. As a result of his complaint to the Commissioner, in correspondence dated 15 June 2021 the Trust confirmed to the complainant that it considered his request to be a vexatious request under section 14(1) of the FOIA.
7. However, on 14 July 2021 the Trust wrote to the complainant again, withdrawing its reliance on section 14(1). The Trust addressed questions 2 to 7 of the request and part C of question 8. It advised it does not hold information within scope of part 1 or parts A and B of question 8.

Scope of the case

8. The complainant first contacted the Commissioner on 17 September 2020 to complain about the way his request for information had been handled.
9. Having confirmed with the complainant the scope of his complaint at this point, the Commissioner has focussed her investigation on whether the Trust holds information within scope of question 1 of his request. She will also consider the timeliness of the Trust's response.

Reasons for decision

Section 1 – general right of access to information held by public authorities / Section 10 – time for compliance

10. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to them if it is held and is not exempt information.
11. Section 10(1) of the FOIA obliges a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. The Commissioner has noted that from 1 June 2018 South Staffordshire and Shropshire Healthcare NHS Foundation Trust (SSSFT) merged with Staffordshire and Stoke-on-Trent Partnership NHS Trust to become Midlands Partnership Foundation Trust – 'the Trust'. The request was submitted in August 2020.
13. The Trust's position is that it does not hold the information the complainant has requested in part 1 of his request. This is for the number of mental health nurses or administration staff provided for duties at a particular police station from 2014 to 2017, and the nature of their deployment.
14. In its submission to the Commissioner, the Trust has confirmed that it does not hold the requested information in any extractable format and has consulted several areas in an attempt to identify if any relevant information is held. This has included contacting the Workforce reporting team, Payroll and the Head of Operations within the relevant service area.
15. The Trust says that a record is not held solely "relating to this working relationship" by which the Commissioner understands the Trust to mean a relationship between nursing and administration staff and the police force in question – Staffordshire Police. Both the Workforce and Payroll teams reviewed electronic records management systems and they confirmed that there were no reports able to extract this information. Another system called 'e roster' which details where and when people were working was not in place at the time of the working relationship between the legacy Trust in question (SSSFT) and Staffordshire Police. The Head of Operations who is the relevant point of contact was also unable to identify information held relevant to this question.

16. The Trust has noted that this request relates to a legacy organisation – a former Trust - with legacy systems. In terms of retention, the current Trust says it has clear retention schedules relating to staff data and specific service data will have its own applicable retention period. However, it says it is unable to extract the data requested in this case and does not have a specific schedule relating to who worked in a particular team at a certain point in time.
17. The Commissioner notes that the Trust was formed in 2018 from the merger of two separate Trusts and that the requested information concerns one of those legacy Trusts (SSSFT) and the period prior to 2018. To comply with question 1, the Trust would need to hold a discrete record of members of staff from the legacy Trust who may have been deployed to Staffordshire Police between particular dates from 2014 to 2017. Alternatively, it would need to hold the necessary 'building blocks' that it could extract to collate this information.
18. The Commissioner is satisfied that the Trust does not hold the first of these: a centrally held, discrete record of staff who may have been working in a specific police station at a particular time. She considers that appropriate teams have carried out adequate searches in relevant areas and she accepts that no such recorded information has been identified. She again notes that the requested information is, in any case, associated with a Trust that no longer exists and it would therefore be very unlikely for the Trust to hold such a list.
19. The Commissioner has next considered whether the Trust is likely to hold the necessary 'building blocks', that is relevant information in individual staff records or corporate electronic management systems that could, if held, be extracted and collated into the information the complainant has requested.
20. The requested information covers a period of six to three years prior to the date of the request, 4 August 2020. In addition, the merger of the two Trusts into one new Trust had happened over one year before the request was submitted to the new Trust.
21. The creation of the new Trust presented new circumstances – eg new structures, new IT systems and changes in staff. The Commissioner considers it credible that, at this point, the Trust does not hold any relevant information and that includes 'building block' information. She notes that it has consulted relevant teams who have considered the current circumstances and IT systems. They have not been able to identify any relevant information and are not able to extract from the Trust's systems a report that might address the complainant's question.

22. The information the complainant has requested can be categorised as legacy information – it is associated with a Trust that no longer existed when the request was submitted, and the Commissioner considers it entirely credible that the Trust does not therefore hold that information.
23. The 'e roster' system that the Trust has referred to could potentially record information of the sort covered by question 1. However, that system was not in place at the time of SSST's relationship with Staffordshire Police. So the requested information cannot be held in the Trust's 'e roster' system.
24. Having considered all the circumstances, the Commissioner is satisfied that, on the balance of probabilities, the Trust does not hold the information requested in question 1 of the request and its response to this question complied with section 1(1)(a) of the FOIA.
25. However, the complainant submitted his request on 4 August 2020 and the Trust did not comply with section 1(1)(a) until 14 July 2021. The Trust's response to the request, including question 1, therefore breached section 10(1) of the FOIA.

Right of appeal

26. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

27. 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.
28. 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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF