

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 October 2022

Public Authority: Powys Teaching Health Board
Address: Monnow Ward
Bronllys Hospital
Bronllys
Brecon
Powys
LD3 0LY

Decision (including any steps ordered)

1. The complainant requested information from Powys Teaching Health Board ("the Board") about number of patients removed from waiting lists and number of Covid deaths in the area it covers. The Board disclosed information within scope of the request.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Board holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA.
3. The Commissioner therefore does not require the Board to take any corrective steps.

Request and response

4. On 7 April 2022, the complainant wrote to the Board and requested information in the following terms:
 - "1. How many names were removed from all waiting lists for all Departments by BCHUB and YCG in the 12 month period prior to the Assembly Elections?

2. Why have 25% of those who have died from Covid acquired the disease whilst in a BCUHB hospital"
5. The Board sought clarification of the request and the complainant clarified the request as follows:

"For question 1, I need to know how many names were removed from all lists by all Departments and of these how many were removed from lists because they had been referred to treatment.

Question 2, What I need to know is how many died from Covid in the Board's Area from the start of the Pandemic to the end of September 2021. It seems to have been easy for BCUHB to provide the honest information and so it should be for your Board."
6. The Board responded to the request on 24 June 2022. It advised that it had carried out a thorough search and that it explained the information is not held in part 1 of the request in such a way to "provide a robust all service/specialty figures" but it provided some information that it hoped would satisfy the request. The Board disclosed information relevant to part 2 of the request.
7. Following an internal review the Council wrote to the complainant on 4 August 2022. In relation to part 1 of the request, the Board explained that it does not hold information in the format requested and it "does not categorise its waiting lists under 'cancelled other' or 'cancelled admitted'," and that it provided information that may be helpful to the complainant in making a comparison.
8. The Board released information in relation to part 2 of the request.
9. The Board confirmed that it holds no further relevant information, other than that which it had disclosed.

Scope of the case

10. The complainant contacted the Commissioner on 23 September 2022 to complain about the way their request for information had been handled.
11. The Commissioner has considered whether, on the balance of probabilities, the Board holds recorded information within scope of parts 1 and 2 of the complainant's request and whether it has complied with section 1(1) of FOIA.

Reasons for decision

12. Under section 1(1) of 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.
13. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
14. As the Board has pointed out to the complainant, FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.
15. The Board advised the complainant that it had carried out a thorough search and it could not replicate its response in a similar manner to a response the complainant received from another public authority. The Commissioner sees no reason to doubt the Board's explanation. Other than state their view that the Board could provide the information in similar fashion to another public authority, the complainant has not provided any evidence or reasoning that would indicate that the Board does hold further relevant information.
16. Having considered all the circumstances, the Commissioner therefore accepts that, on the balance of probabilities, the Board does not hold any further recorded information that would address the complainant's questions. As such, the Commissioner has decided that the Council has complied with section 1(1) of FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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.....

Catherine Fletcher
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SK9 5AF