

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 20 April 2023

**Public Authority:** NHS South East London Integrated Care Board  
**Address:** 160 Tooley Street  
London  
SE1 2TZ

#### **Decision (including any steps ordered)**

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1. The complainant made an 11-part request for information regarding the proposed re-opening of a medical facility. The above public authority ("the public authority") denied holding any information within the scope of the request.
2. The Commissioner's decision is that the public authority did hold information within the scope of element [1], but, on the balance of probabilities, did not hold information within the scope of any other element at the point the request was responded to.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Either disclose the "indicative budget" figure that it provided to the Commissioner or issue a refusal notice that complies with section 17 of FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Background

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5. The Source is a health and wellbeing centre in South East London. It was closed in 2016 but re-opened for six months from September 2022 on a trial basis.
6. The request that forms the basis of this request was originally submitted to South East London Clinical Commissioning Group which, at that time, was responsible for administering NHS funds in that area. In 2022, Clinical Commissioning Groups were abolished and new Integrated Care Boards established to administer the funds. Therefore responsibility for dealing with this request transferred over to NHS South East London Integrated Care Board. For the purpose of this decision notice, any reference to "the public authority" should be read as referring to both the Integrated Care Board and the Clinical Commissioning Group that preceded it.

## Request and response

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7. On 1 November 2021, the complainant wrote to the public authority and requested information in the following terms.

"About the proposed re-opening of, "The Source" nurse-led medical unit at 65, Sibthorpe Road, SE12 9DN

- [1] Please state what the SELCCG estimates its costs will be in opening and running the building for the trial period.
- [2] Please will the SELCCG state separately what the cost of a nurse practitioner for two half day sessions each week for the trial period of six months will be.
- [3] Please state what other staff costs, for example for a receptionist or administrator, the SELCCG estimates it will pay.
- [4] Please will the SELCCG estimate what the cost of supplying medical materials for the clinic over the trial period will be.
- [5] Please will SELCCG state separately the estimated costs of cleaning, insurance, security and other, 'overheads' for the trial period.
- [6] Please state what the costs will be for the proposed one-half day session each week during the trial period of a, "Live Well" consultant?

- [7] Will the staff to be employed be employed directly or via an agency?
- [8] If employed by an agency, please state what the costs are estimated to be, (for example daily rates; VAT and other fees), compared to the cost of employing staff directly.
- [9] Please state to what use SELCCG proposes to put the building for the remaining three and a half days each week of the trial.
- [10] Please state what costs SELCCG estimates it will incur for the remaining three and half days in each week of the trial.
- [11] Please will SELCCG state what it anticipates its income to be over the period of the trial period, from all sources, including the most recent promise of more money for the NHS from the Chancellor in his statement on 27.10.2021”.
8. On 18 November 2021, the public authority responded as follows.
- “NHS South East London CCG does not hold this information. All of the areas listed above are currently being worked through so it will not be possible at this stage to give accurate figures.”
9. The public authority upheld its stance following an internal review

### **Reasons for decision**

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10. The Commissioner considers he has to determine, on the balance of probabilities, whether the public authority held the requested information at the point it responded.
11. The complainant pointed to various statements he said had been made at public meetings in which key figures at the public authority had stated a desire and commitment to see the Source re-opened. He argued that the wording of such statements implied that plans were reasonably advanced – to the point where cost estimates ought to have been produced.
12. The public authority explained to the Commissioner that, at the point it had responded to the request it held no information within the scope of the request. This was because the precise details of how the facility would operate, what services it would offer and how they would be provided, had not been determined. For example, it could not say how much it would need to spend on nursing until it had decided to offer

such a facility. Once it had made that decision it would then need to decide on the level of skill and experience the nurse would require and what hours they would be required to work. Until that was all decided and contracts agreed, it was unable to say how much such a service would cost.

13. When pressed by the Commissioner, the public authority accepted that it had had an "indicative budget" (and provided the figure), but it did not, at the point it responded, hold any costs (or even estimates of costs) for any of the remaining activities anticipated by the request.
14. Having considered the arguments, the Commissioner accepts that the public authority would not have had the detailed cost estimates sought by the request until it had properly developed the services it wished to offer. It is not for the Commissioner to opine on the quality of the public authority's planning. However, given that the request was responded to some ten months prior to the Source re-opening, he does not consider it unreasonable for planning to have been at this stage in November 2021. Nothing in the reported public statements would contradict this assertion – although the Commissioner accepts that some of the statements (as they have been reported to him) might have given an impression that planning was at a more advanced stage than was actually the case.
15. The Commissioner is therefore satisfied that the public authority did not hold any information within the scope of elements [2] to [11] at the point that it responded to the request.
16. However, the Commissioner considers that the "indicative budget", that the public authority confirmed it held at the time of the request, would have fallen within the scope of element [1] of the request.
17. The public authority must now either disclose that figure or issue a refusal notice.

## Right of appeal

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18. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

19. 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.
20. 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 .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**