

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 November 2021

Public Authority: St Helens Clinical Commissioning Group

Address: The Gamble Building
Victoria Square
St Helens
Merseyside
WA10 1DY

Decision (including any steps ordered)

1. The complainant has requested information relating to weight management services within St Helens.
2. The St Helens Clinical Commissioning Group ('the CCG') confirmed that it does not hold any further information that falls within the scope of the request, other than that which has already been disclosed.
3. The Commissioner is satisfied that, on the balance of probabilities, the CCG does not hold any further information that falls within the scope of the request.
4. The Commissioner does not require the CCG to take any further steps as she is satisfied that this request has been dealt with in line with section 1(1) (General right of access to information held by public authorities) of the FOIA.

Request and response

5. On 25 February 2021, the complainant wrote to the CCG and requested information in the following terms:

"Can I request the average wait in days for people on tier 4 service of weight management in St Helens to be referred to weight loss surgery in 2018, 2019, 2020."

Can I also request the percentage of people that ask for weight loss surgery that are on tier 4 service are actually referred for weight loss surgery in 2018, 2019, 2020 in St Helens.

Can I also ask the percentage of people in St Helens that are on tier 3 fast track 6 month service are actually put through to tier 4 service after the 6 months in 2018, 2019, 2020.

Can I also request the waiting time for St Helens patients that are referred through to weight loss surgery to actually getting weight loss surgery in 2018, 2019, 2020."

6. The CCG responded on 25 March 2021 and disclosed a report on the number of current registered patients referred to the weight management pathway. The CCG confirmed that it held no further information that fell within the scope of the request.
7. The CCG provided an internal review on 1 April 2021 and upheld its previous position. The Commissioner notes that the CCG explained to the complainant that 'You may be able to obtain this information from the provider directly.'

Scope of the case

8. The complainant contacted the Commissioner on 19 April 2021 to complain about the way their request for information had been handled.
9. The complainant has not specified to the Commissioner why they imagine the CCG should hold further information that falls within the scope of the request. The complainant has simply explained to the Commissioner that they consider the information provided by the CCG as 'inadequate.'
10. The Commissioner considers the scope of her investigation to be to determine whether, on the balance of probabilities, the CCG is correct when it says it does not hold any further information that falls within the scope of the request.

Reasons for decision

11. Section 1 of the FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds

information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

12. In this case, the complainant disputes the CCG's position that it does not hold any further information that falls within the scope of the request, other than that which has already been provided.
13. In cases where a dispute arises over the recorded information held by a public authority at the time of a request, following the outcome of a number of First-tier Tribunal decisions, the Commissioner applies the civil standard of the balance of probabilities. This means that the Commissioner will determine whether it is likely, or unlikely, that the public authority held information relevant to the complainant's request at the time that the request was received.
14. In order to reach her determination, the Commissioner asked the CCG to provide detailed explanations as to why no further information was held at the time that the request was received. The Commissioner also asked the CCG to explain the searches it had undertaken to locate any information that would fall within the scope of the request and to explain why these searches would have been likely to locate all of the information in scope.

The CCG's position

Background information

15. The CCG has explained that the information request '*concerns the access and treatment across a range of services that constitute the weight management pathway.*' The Commissioner understands that the weight management pathway may involve a patient being referred to clinicians at different points of the pathway or into a different treatment or support regime.
16. The CCG has explained that stages of escalation exist within the weight management pathway. These escalation stages are dependent upon specific referral and treatment criteria and are referred to as 'tiers'.
17. A patient is usually referred into the weight management pathway by their GP. At its most complex, a patient may be referred to 'tier 4' which includes bariatric surgery and bariatric medicine¹.

¹ Bariatrics is the branch of medicine that deals with the causes, prevention, and treatment of obesity.

18. The CCG has explained that *'The CCG is not responsible for the whole patient journey along this pathway and hence the information available to the CCG is limited.'*
19. For background information, Clinical Commissioning Groups are NHS bodies set up as a result of the Health and Social Care Act 2012. The role of CCGs is to organise the delivery of NHS services in England.² However, the CCGs do not directly provide the aforementioned services.
20. The CCG acknowledges that *'there is a lack of public clarity as to which NHS body is responsible for the different components of NHS treatments.'* In this instance, the CCG has explained that, since the request specifically focuses on aspects of referral management into services and active case management, information relating to the request is likely to be held by the patient's GP or the appropriate provider.
21. The Commissioner acknowledges the complainant's concerns and the lack of clarity regarding CCG's and how they operate within the larger NHS. Ultimately, the CCG has explained that *'the level of detail and information available to the CCG concentrates on the utilisation of the specific services the CCG commissions and the performance management thereof.'*
22. The Commissioner asked the CCG to explain the searches it had undertaken to locate any information that would fall within the scope of the request and to explain why these searches would have been likely to locate all of the information in scope.
23. To reiterate, the CCG disclosed in response to the request a report on the number of patients who were referred to the weight management pathway. This information was held by the CCG's *'Performance Team as part of the GP clinical systems and the CCG's Referral Management System'*.
24. The Commissioner has reviewed the report in question. She notes that it provides a total figure of current registered patients, referred to the weight management pathway, organised by practice. Whilst this report provides further information relating to the total number of patients within the practice and whether the referred patient is male or female, it does not provide the complainant with the breakdown which they have requested.

² [Health and Social Care Act 2012 \(legislation.gov.uk\)](http://legislation.gov.uk)

25. The CCG notes that, since the request refers to active case management, this level of detail is likely to be held by a patient's GP who initially referred the patient and any subsequent providers that are directly treating the patient.

Searches conducted

26. Upon receiving the Commissioner's investigation letter the CCG confirmed that it undertook further checks to ascertain whether it held further information relating to bariatric services.
27. The CCG has explained that, if further information was held in relation to the request, it would be in electronic format and that there are no paper records to search. The CCG confirmed that it had searched the two aforementioned databases (the GP clinical systems and the CCG's Referral Management System) and the only information held within scope is the report that has already been disclosed.
28. The CCG has explained that it used the search terms '*weight management*' and '*bariatric*' to search the aforementioned databases and the email systems of key commissioners within the clinical commissioning group. Given the subject of the request and the structure of the CCG, the Commissioner considers such searches appropriate and reasonable.
29. To reiterate, the Commissioner asked the CCG to explain why no further information was held at the time that the request was received. The CCG has confirmed that '*Tier 3 Bariatric Services are commissioned by Public Health (City Health Partnership)*³.'
30. Whilst the CCG confirmed that it holds reports on tier 4 bariatric services that are in the public domain through its Governing Body meetings,⁴ it is not the CCG that has the ultimate responsibility for bariatric services within the North West. The Commissioner understands that the Chorley CCG is the Lead Commissioner for bariatric services within the North West.
31. Ultimately, the CCG has explained that it does not '*have access to any patient level electronic records*' in order to fulfil the complainant's request. Whilst the CCG has performed further checks on the

³ [City Health Care Partnership \(chcpic.org.uk\)](http://chcpic.org.uk)

⁴ [St Helens Clinical Commissioning Group - Governing Body Meeting Schedule \(sthelensccg.nhs.uk\)](http://sthelensccg.nhs.uk)

performance reports that have been presented to the CCG Board⁵, this only seeks to confirm that data relating to wait times and delays in relation to bariatric surgery are being monitored by the CCG. It does not break down those wait times and delays quantifiably.

The Commissioner's view

32. The Commissioner acknowledges the complainant's concerns and notes that the way in which CCG's operates within the NHS may be misunderstood by the public.
33. The CCG has explained to the Commissioner that '*The CCG is a commissioning organisation and does not hold patient level information...it only holds low level information.*'
34. This would explain why the CCG has been able to disclose a report on the number of patients who were referred to the weight management pathway but does not hold a further breakdown of this figure in relation to wait times, delays and referrals to the tiers 3 and 4 within the weight management pathway. This breakdown is likely to be held by the patient's GP and any subsequent provider.
35. The Commissioner is satisfied that, on the balance of probabilities, the CCG does not hold any further information that falls within the scope of the complainant's request.

Other matters

36. Returning to paragraph 7, the Commissioner notes that in the CCG's internal review it explained to the complainant that '*You may be able to obtain this information from the provider directly.*'
37. Within its submission the CCG has confirmed to the Commissioner '*The Provider mentioned in this response refers to organisations that directly provide weight management services. Locally this would include Cheshire & Merseyside Acute Trust Hospitals (Tier 4), City Health Partnership (Tier 3 – commissioned by Public Health).*' The CCG has also mentioned Chorley CCG as the Lead Commissioner for bariatric services within the North West. With reference to these other organisations, the CCG has stated '*These organisations may have more detailed information available to them.*'

⁵ gb-full-pack-part-i-100719.pdf (sthelensccg.nhs.uk)

38. At this stage, it is not clear to the Commissioner if the aforementioned organisations were identified by the CCG during the original handling of the request or during the course of the Commissioner's investigation.
39. According to [section 16](#) (duty to provide advice and assistance) of the FOIA a public authority may advise an applicant if information is available elsewhere and how to access this information. Therefore, if this information was available to the CCG during the original handling of the request it should have communicated this to the complainant to assist them in their enquiries.

Right of appeal

40. 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

41. 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.
42. 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

Alice Gradwell
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