

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 18 January 2021

**Public Authority:** Lewisham and Greenwich NHS Trust  
**Address:** University Hospital Lewisham  
Lewisham High Street  
London  
SE13 6LH

### Decision (including any steps ordered)

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1. The complainant has requested from Lewisham and Greenwich NHS Trust (the Trust) contracts with car parking management services providers.
2. The Commissioner's decision is that on the balance of probabilities the requested information is not held.
3. The Commissioner does not require any steps to be taken as a result of this decision.

### Request and response

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4. On 4 April 2020, the complainant wrote to the Trust and requested the following information under the FOIA:  
  
*" 1. A copy of the latest Contract between LGT and First Parking  
2. A copy of the latest Contract between LGT and Euro Car Parks."*
5. On 23 April 2020 the Trust responded to the request. It denied holding the requested information. It said that it does not have a contract with First Parking. It also said that it does not have a formal contract with

Euro Car Parks, but there was however a parking arrangement in place that was 'inherited' from the previous Trust.

6. On 2 May 2020, the complainant wrote to the Trust and asked it to carry out a review of its handling of the request. He said that he believed the contracts were created sometime between 2010 – 2012, prior to the dissolution of South London Healthcare NHS Trust (SLHNT). He also said that as there have been no other contracts since, the Trust would still be operating under these contracts and therefore it should have a copy of them. He said that when SLHNT dissolved on the 1 October 2013, all existing contracts should have been transferred to the newly formed Lewisham and Greenwich NHS Trust and kept in a repository of all SLNHT contracts and policy documents.
7. On 2 June 2020 the Trust conducted a review of its handling of the request and wrote to the complainant upholding its original decision. The Trust explained that it does not have a contract with First Parking. That it has a direct contract with CIS Security Limited (CIS), and although CIS sub-contract management of Trust car parking services to First Parking, the Trust does not hold a copy of the sub-contract. In regard to a contract with Euro Car Parks, the Trust explained that when SLHNT dissolved, the contract (for Euro Car Parks to manage car parking services at Queen Elizabeth Hospital) 'moved' to the Trust. However, the contract was not handed over as part of the merger. It said that it has tried to locate a physical copy of the contract multiple times but has been unable to do so and that Euro Car Parks was also unable to locate a copy of the contract. The Trust acknowledged that this is not the 'best situation'. It also said that it has been trying to retender this service for the past three years and is proposing to extend the existing 'contract' for another 12 months to complete the re-tendering of the management of car parking services Trust wide.

### **Scope of the case**

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8. On 6 June 2020 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. The Commissioner has considered whether, on the balance of probabilities, the requested information is held by the Trust.

## Scope of the request

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10. The Commissioner notes that, although the complainant originally requested contracts between the Trust and the two named car parking service companies, in his request for an internal review he included contracts between SLHNT and the same car parking service companies. This is because he believed that the Trust's car parking is managed in accordance with previous contracts. The Trust addressed this matter in its internal review and did not treat it as a separate request. She also notes that during the course of her investigation the complainant has made it clear to her that he is specifically seeking information contained within contracts. The Commissioner therefore accepts that the scope of the request is only for information contained within contracts and has been extended to include contracts between SLHNT and the two named parking companies.

## Background

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11. SLHNT was a British National Health Service trust that was responsible for three hospitals in south east London: Princess Royal University Hospital (Bromley), Queen Elizabeth Hospital (Woolwich) and Queen Mary's Hospital (Sidcup). SLHNT was dissolved on 1 October 2013 after going into administration and its member hospitals were transferred to other NHS Trusts.
12. Legal due diligence during the winding up process was managed by the NHS Trust Development Authority (NDTA) which is now part of NHS England. A Trust Special Administrator (TSA) was appointed and all previous contracts held by SLHNT would have been transferred through the TSA to the NDTA and held within a legacy system as part of the processing of all legacy contracts.
13. The Trust was formed on 1 October 2013 and is responsible for Queen Elizabeth Hospital (Woolwich) and University Hospital Lewisham, the latter was formerly part of Lewisham Healthcare.

## Reasons for decision

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14. 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."*

15. The Commissioner has sought to determine whether, on the balance of probabilities, the Trust holds any relevant information which falls within the scope of the request. Applying the civil test of 'the balance of probabilities' is in line with the approach taken by the Information Rights Tribunal when it has considered the issue of whether information is held.
16. In deciding where the balance of probabilities lies, the Commissioner will consider explanations offered by the public authority and complainant, together with searches carried out by the Trust and any other information offered, which is relevant to her determination.

#### *The complainant's view*

17. The complainant believes the Trust holds the requested information because its car parks are managed by a business arrangement with the two named car parking management service companies and therefore these arrangements would be contained within formal contracts.
18. The complainant also said that the Trust had been preparing a contract with another company and used a previous SLHNT contract dated 2012 as part of this process. That this is evidence that contracts were transferred from SLHNT to the Trust.

#### *The Trust's position*

19. In regard to contracts with First Parking. The Trust explained that it has a direct contract with CIS for several services including management of parking services. That CIS sub-contract parking at University Hospital Lewisham to First Parking. The Trust says that its contract with CIS was due to expire in March 2020 but was extended until June 2021 and also covers services for the Queen Elizabeth Hospital site. It said that although the Trust would hold copies of contracts with direct suppliers, where sub-contractors have been used, it would not hold copies of those contracts but would manage the service through the directly contracted party, in this case that is CIS.
20. The Commissioner has viewed the contract between the Trust and CIS and notes that it states that the Trust can request a copy of any contract

that CIS has sub-contracted. The Trust has made reasonable checks and confirmed that it has not previously requested a copy of the contract between CIS and First Parking. It has explained that this is because it has not had any issues with CIS or the management of car parking services and therefore has had no reason to request the contract. The Trust also confirmed that it does not have any direct contact with First Parking and did not contact the organisation to obtain a copy of the sub-contract.

21. The Trust has also explained that as First Parking is sub-contracted at University Hospital Lewisham which was part of Lewisham Healthcare prior to joining the Trust (and not part of SLHNT), SLHNT would not have held a contract with First Parking.
22. The Trust also confirmed that all contract information provided to it by the TSA was checked and searches for the contracts were carried out in its Governance, Finance, Contracts, Estates, Facilities, Procurement and Contracts departments. The following search terms were used when conducting electronic searches:
  - Car Parking
  - SLHT contracts
  - Car Parking SLAs
  - SLHT legacy contracts
  - SLHT estates contracts
  - Provision of car parking
  - First Parking contract
  - CIS car parking
  - Car Parking and security contract
  - Contracts
  - SLHNT contracts
  - 2012 SLHT contract
  - 2013 SLHT contract
  - LGT car parking
  - Lewisham and Greenwich NHS Trust Car Parking
23. However, no contracts between the Trust / SLHNT and First Parking were found to be held.
24. In regard to contracts with Euro Car Parks. The Trust confirmed that this information is not held. It explained that any previous contract between SLHNT and Euro Car Parks for car parking management services would have been held by SLHNT. That prior to the dissolution of SLHNT in 2013 an 'interim solution' to continue providing car parking services at the Queen Elizabeth Hospital site was agreed between SLHNT and the TSA. This was an informal arrangement (no contract) to continue after the

formation of the Trust. The Commissioner has been provided with emails showing evidence of this interim arrangement. This includes an email, dated 6 January 2020, when the Trust wrote to Euro Car Parks extending this arrangement as the re-tendering of contracts had still not been completed. The Trust acknowledged that it could have made this clear to the complainant.

25. The Trust confirmed that checks have been carried out and no contracts for car parking were provided to it by the TSA on dissolution of SLHNT, that it is unclear whether the contract had expired / was voided when the interim solution (above) had been agreed. It said that if the contract existed it is likely to have been transferred through the TSA process and held within a legacy system at the NHS TDA.
26. The Trust confirmed that it has a business purpose to hold contracts where it contracts directly with the provider of services. It said that there is no evidence of an actual formal contract (document) between it and Euro Car Parks or evidence that a contract between SLHNT and Euro Car Parks was ever held and then deleted or destroyed. Furthermore it stated that existing key staff who were employed at the time of the dissolution were asked to search their personal drives and email accounts.
27. The Trust confirmed that it carried out extensive searches of hard copy files and electronic hard drives and folders within its Governance, Finance, Contracts, Estates, Facilities, Procurement and Contracts departments. It searched folders containing contracts which were provided at the time of the dissolution of SLHNT, procurement agreements and SLHNT legacy contracts and information files, all contracts related to Euro Car Parks and shared email inboxes.
28. The Trust carried out initial and repeat extensive electronic searches for the contract on its systems and shared drives using the following terms:
  - SLHT contracts
  - QEH contracts
  - Car Parking SLHT
  - Car Parking QEH
  - Euro Car Parks
  - Car Parking SLAs
  - SLHT legacy contracts
  - SLHT estates contracts
  - Contract with Euro Car Parks
  - Interim Solution contracts
  - Car Park Tender QEH
  - Transition arrangements Car parking QEH

- Trust Special Administrator
  - Provision of Car Parking
  - Car parking and security contract
  - Queen Elizabeth Hospital car parking arrangements
  - Contracts
  - 2012 SLHT contract
  - 2013 SLHT contract
  - LGT car parking
  - Lewisham and Greenwich NHS Trust car parking
29. However no contracts between the Trust / SLHNT and Euro Car Parks were found to be held.
30. The Trust also confirmed that it contacted Euro Car Parks and asked it to conduct a search for the previous contract with SLHNT, although it performed the searches, it was unable to locate the contract.

*The Commissioner's position*

31. In regard to contracts between the Trust / SLHNT and First Parking. The Commissioner notes that there is no evidence that such contracts exist or ever existed. She also notes that the contract that does exist is a direct contract between the Trust and CIS Security, who sub contracts parking to First Parking and that the Trust has checked and confirmed that it has not previously requested a copy of the sub-contract, and that contract is ultimately outside the scope of the request.
32. The Commissioner also notes that University Hospital Lewisham (where First Parking is based) was never a part of SLHNT. Therefore the complainant's belief that the Trust would still be managing parking under a previous contract between SLHNT and First Parking is incorrect. She also notes the extent of the searches the Trust carried out on the information it received from the TSA as well as the electronic searches it conducted.
33. In regard to contracts between the Trust / SLHNT and Euro Car Parks the Commissioner accepts that there is a business purpose for the Trust to hold a contract with a direct provider of car parking management services such as Euro Car Parks. However the business arrangement that exists, was originally an 'interim solution' that was an informal (non-contractual) arrangement, that was agreed prior to the formation of the Trust, and has since been extended. She also notes that since its formation, the Trust has been in the process of re-tendering contracts, and therefore there is no evidence that a formal contract (document) exists between the Trust and Euro Car Parks.

34. The Commissioner acknowledges the likelihood that a contract for parking between SLHNT and Euro Car parks was previously held by SLHNT and currently by NHS England. However, because of the likelihood of that contract expiring or being voided when SLHNT dissolved – thus becoming a legacy contract (document) and then the creation of the interim solution, she is not convinced that there was a business purpose for the contract to be held by the Trust. She considers that the contract would have been for the Queen Elizabeth Hospital site, and that the evidence provided shows that a non-contractual 'interim solution' to manage parking at the site was put in place prior to the dissolution of SLHNT. Therefore, the complainant's belief that the Trust is still operating under the previous contract (between SLHNT and Euro Car Parks) is incorrect, as it is in fact operating under a subsequent non-contractual interim arrangement that has since been extended. She also notes that the legal due diligence during the winding up process was managed by NDTA and the likelihood that all previous contracts would have been transferred by the TSA to be held within a legacy system at the NDTA as part of its processing of all legacy contracts.
35. The Commissioner also notes the extent of the manual searches of hard copy files and electronic searches of systems and shared drives in the numerous named departments the Trust has carried out, the subject areas and search terms used and the likelihood that they would retrieve any relevant information. There is however no evidence that the Trust holds or ever held the previous contract between SLHNT and Euro Car Parks. She also notes that although the Trust was not a party to the contract it nevertheless contacted Euro Car Parks requesting it to carry out searches for the contract.
36. The Commissioner also notes that information about the interim solution is not contained within a formal contract, and is reminded that the complainant has confirmed the scope of his request to be specifically for contracts and that he does not believe that any new contracts have been created.
37. The Commissioner has considered the complainant's comment about the Trust using another previous SLHNT contract during the process of entering into a new contract and that this is evidence that it holds the contracts he requested. The Commissioner notes that although the Trust has confirmed some contracts were provided to it by the TSA at the time of the dissolution of SLHNT, she also notes that upon conducting extensive searches, it confirmed that no contracts for car parking management services were transferred, nor is there any evidence that they were.



38. The Commissioner is therefore satisfied that, on the balance of probabilities, the contracts requested by the complainant are not held by the Trust.

## Right of appeal

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39. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

40. 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.
41. 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**  
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