

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 January 2014

Public Authority: NHS Lancashire North
Clinical Commissioning Group

Address: NHS Lancashire CSU
Jubilee House
Lancashire Business Park
Leyland
PR26 6TR

Decision (including any steps ordered)

1. The complainant has requested information from the Lancashire North Clinical Commissioning Group ("LNCCG"). He referred to a letter from the Chief Executive of the University Hospitals of Morecambe Bay NHS Trust ("UHMB") to the Chief Executive of the North Lancashire Teaching Primary Care Trust ("NLTPCT") which looks forward to a future board to board meeting between the two Trusts and he requested the minutes of that meeting. He also requested any documents concerning the outcome of an NLTPCT Board discussion which was referred to in the letter.
2. LNCCG has provided minutes of meetings which were held subsequent to the letter and has redacted information from these which is not relevant to the request. The Commissioner is satisfied that LNCCG has provided all the information that it holds on this matter and that the redacted information does not fall under the scope of the request. However in failing to provide the information it does hold within 20 working days, LNCCG is in breach of section 10(1) of the FOIA.
3. No further steps are required.

Request and response

4. On 23 July 2013 the complainant wrote to LNCCG and requested information with reference to a letter dated 14 June 2010 from the Chief Executive of the UHMB to the Chief Executive of the NLTPCT. This letter referred to a paper which was presented to the NLTPCT Board on 26 May 2010 and the information request is concerned with further

meetings and discussions following on from the presentation of that paper:

1. *"Following the 'pass the parcel' game between LNCCG and the Secretary of State for Health, it is unclear at any instant who will take responsibility for information relating to NLTPCT. The last communication from [name redacted], solicitors to the PCT and CCG, was dated 19th July, included the enclosed file, and described the CCG as 'holding' information regarding the PCT.*
2. *You will see that on Page 1 [name redacted] 'looks forward to a robust debate at our future Board to Board meeting'. The first part of this FoI request is for the minutes (including any so called 'Part II'- euphemism for 'secret', minutes) of this meeting. It appears from the text that this meeting cannot have taken place in June, and must have taken place before UHMB was authorised by Monitor on 1.10.10.*
3. *On the penultimate page you will see that [name redacted] would 'appreciate confirmation of the outcome of your board discussion regarding the paper'. The paper in question is already the subject of a separate FoI request, and is detailed in the first lines of the letter. I am not requesting this 'paper'. I **am requesting** any documents which could be construed as fitting the description of 'the outcome of your board discussion regarding the paper.'"*
5. On 26 July 2013 the complainant was provided with a redacted version of the Board Report of 26 May 2010. However this was provided via LNCCG's solicitors in response to an earlier request and the information provided therefore did not address the above information request.
6. The complainant informed the LNCCG that he required a response on 27 August 2013, 25 September 2013 and 3 October 2013.
7. A full response was provided on 16 October 2013. This explained that LNCCG had thought that the response of 26 July 2013 had answered the request but now realised it had not. With regard to each part of the request, LNCCG responded as follows:
 - i. (No response needed).
 - ii. It explained the board to board meeting referred to did not take place at any time following the letter of 14 June 2010.
 - iii. It provided the minutes of the NLTPCT Board meeting of 26 May 2013 with redactions. It explained that some third party personal

data had been redacted under section 40(2) of the FOIA and other information had been redacted as it did not fall under the scope of the request.

8. The complainant requested an internal review on 21 October 2013.
9. LNCCG sent the complainant the outcome of its internal review on 24 October 2013. It upheld its original position and explained that it considered all the requested information had been provided to him. It also explained that some information was redacted because it had no relevance to his request.
10. On 25 October 2013 the complainant explained to LNCCG that he was not satisfied with its response. He questioned its application of section 40(2) to the redacted personal data of third parties and he argued that he considered LNCCG holds further information which falls under the scope of the request but which it had not provided. He argued that the proposed meeting should have taken place.
11. On 4 November 2013 LNCCG confirmed that it could not find any documentation from the PCT in 2010 relating to why the board to board meeting was cancelled.
12. It provided a redacted copy of the Part 2 Board minutes for a meeting which took place on 29 September 2010. This relates to a follow-up discussion by the NLTPCT Board on the disclosed report. It explained that information which was not relevant to the request had been redacted from the minutes.
13. LNCCG also provided a full copy of the Integrated Governance Committee (PCT subcommittee) minutes from a meeting on 22 June 2010 when the PCT requested the attendance of the UHMB's Medical Director and Nurse Director to discuss the quality issues of the UHMB.

Scope of the case

14. The complainant contacted the Commissioner on 23 August 2013 to complain about LNCCG's failure to respond to his request. As outlined above, a response and internal review were then provided. However the complainant remained dissatisfied with the response of LNCCG.
15. The scope of this case is therefore concerned with the following:
 - the redaction of information from the minutes of 26 May 2010;

- the redaction of information from the minutes of 29 September 2010;
- whether LNCCG holds other information concerning the proposed meeting or discussions following the presentation of the paper of 26 May 2010; and
- the late provision of the information provided.

Reasons for decision

The redaction of information from the minutes of 26 May 2010 and 29 September 2010

16. LNCCG has confirmed that its initial application of section 40(2) to the redacted information in the minutes of 26 May 2010 was an error. It has explained that it considers its response at internal review to be correct. It has therefore confirmed that the information redacted from the minutes of 26 May 2010 was not provided to the complainant because it was not relevant to the request: it is not concerned with the outcome of the board discussion of the paper of 26 May 2010.
17. LNCCG has also confirmed that information redacted from the minutes of 29 September 2010 was not provided to the complainant because it was not relevant to the request. This includes the names of five individuals who were in attendance at the meeting but were not involved in the discussions concerning the paper.
18. The Commissioner has reviewed both sets of minutes and is satisfied that the complainant has been provided with the information from these minutes which is relevant to his request of 23 July 2013. This is because the information provided is concerned with consideration of the paper of 26 May 2010.
19. A request under the FOIA is a request for recorded information and a public authority is not compelled to provide an applicant with the whole document which contains the information required.
20. The complainant has been informed that should he wish LNCCG to provide the whole minutes of 26 May 2010 or 29 September 2010, he could specifically submit a FOIA request which asked for all the information contained in those minutes. LNCCG would then have to consider whether any FOIA exemptions applied to the information it wished to withhold.

Whether LNCCG holds other information concerning the proposed meeting or discussions following the presentation of the paper of 26 May 2010

21. LNCCG has confirmed that the only recorded information it holds concerning meetings and discussions following the presentation of the paper of 26 May 2010 are the minutes of the Integrated Governance meeting of 22 June 2010 and the Part B Board meeting dated 29 September 2010.
22. The relevant information from the minutes of 29 September 2010 and the full minutes of the meeting of 22 June 2010 have been provided to the complainant.
23. LNCCG has confirmed that it conducted a thorough search of its files for further information and that these were the only two set of minutes it found.
24. LNCCG has explained that all files of the PCT are now termed legacy files and are not held by the CCG but are held by the Department of Health. CCG holds information on this subject created since April 2013 when it was set up.
25. LNCCG has therefore explained that it has no access to email archives as they are deemed to be legacy archives and are the responsibility of the Department of Health.
26. It has explained that most people involved in this matter no longer work for the CCG and all the information provided to date is information that the CCG has access to from files held by individuals who used to work at the PCT.
27. In order to locate this information a thorough search of all the files held by the CCG was carried out.
28. The complainant remains dissatisfied with this position. He does not accept that such an important meeting which was clearly planned has left no trace of either when it was scheduled or the means whereby it was cancelled.
29. However the Commissioner is satisfied that on the balance of probabilities, the CCG does not hold any further information concerning the proposed meeting. It would seem reasonable to conclude that any further information, if held, will be held by the Department of Health. The Commissioner is also mindful that the complainant has not requested information concerning the cancellation of any such meeting.

The late provision of the information

30. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
31. From the information provided to the Commissioner in this case it is evident that LNCCG did not respond to the complainant within the statutory time frame.

Right of appeal

32. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

33. 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.
34. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF