

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 February 2018

Public Authority: NHS Herts Valley Clinical Commissioning Group
Address: Hemel One
Boundary Way
Hemel Hempstead
HP2 7YU

Decision (including any steps ordered)

1. The complainant has requested information relating to reports submitted by health providers to NHS England.
2. The Commissioner's decision is that Herts Valley Clinical Commissioning Group (the CCG) does not hold the information requested.
3. The Commissioner does not require the CCG to take any steps as a result of this decision notice.

Request and response

4. On 17 May 2017, the complainant wrote to the CCG and requested information in the following terms:

"I refer to the (Dept of Health) DH's, "National Quality Requirements in the Delivery of Out-of-Hours Services" 2006 document (attached) in pages 5 to 7, referred also in the Direct Local Health Limited t/a Watford Care Alliance's Out-Of-Hours (OOH) APMS (Alternative Provider of Medical Services) contract with the NHS England in clause 3.5.1 on page 10 of "2014/15 APMS Contract 18.06.14 v1.0."

1. "Providers must report regularly to PCTs on their compliance with the Quality Requirements."

FOI: *Please tell when these reports were sent between 2014 and March 2015 from Direct Local Health Ltd t/a Watford Care Alliance to the Local*

NHS Hertfordshire county Commissioner [sic] (HVCCG)?

2. "Providers must regularly audit a random sample of patients experiences of the service (for example 1% per quarter) and appropriate action must be taken on the results of those audits.

Regular reports of these audits must be made available to the contracting PCT. Providers must cooperate fully with PCTs in ensuring that these audits include the experiences of patients whose episode of care involved more than one provider organisation."

FOI : *Please tell when these reports were sent between 2014 and March 2015 from Direct Local Health Ltd t/a Watford Care Alliance to the Local NHS Hertfordshire county Commissioner [sic] (HVCCG)?"*

5. The CCG responded on responded 15 June 2017 and denied holding the requested information. It advised the complainant that the Commissioner of the service was NHS England and that he should direct his request to NHS England or the relevant GP practice. Having made a request to NHS England he was further advised that the information should be held by the CCG.
6. Following this advice the complainant contacted the CCG and requested an internal review by the CCG.
7. However, as more than 20 working days had elapsed since the CCG's response it advised the complainant that his request for review was out of time.

Scope of the case

8. The complainant contacted the Commissioner on 22 September 2017 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine whether the CCG holds the information requested and if it has complied with its obligations under the FOIA.

Reasons for decision

Section 1 – general right of access

10. Section 1(1) of FOIA says that an individual who asks for information from a public authority is entitled to (a) be informed whether the

authority holds the information and (b) if the information is held, to have that information communicated to them.

11. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – in accordance with a number of First-Tier Tribunal decisions – applies the civil standard of the balance of probabilities.
12. In its submission to the Commissioner, the CCG explained that the complainant had asked the same questions several times and had been told that it did not hold the information as GP services are commissioned by NHS England.
13. As is her usual practice, the Commissioner asked the CCG a number of questions relating to how it had established that it did not hold the requested information.
14. The CCG explained that it did not search for the information, as it was immediately apparent that it would not be the holder of documents relating to management of a contract commissioned by another organisation (NHS England). It did not believe that it would be an appropriate use of CCG staff time to search for documents that it had no reason to hold, in order to prove that it did not hold them.
15. The CCG further explained that its records tend to be stored electronically, however it is difficult to speculate how past documents would have been transmitted to a different commissioner. It also explained that it was unlikely that it had ever held the requested information as it had no reason to do so.
16. The CCG provided a copy of its "information lifecycle policy" which demonstrates that it complies with all applicable legislation. However, the policy does not specifically state what should happen to records where the CCG is not the holder. Usual practice is that records/documents that it is not the holder of are deleted/destroyed after they have been used for the purpose for which they were obtained. It also confirmed that there was no business reason or statutory requirement for the CCG to hold such a document.
17. Having considered the response from the CCG, it is the Commissioner's view that, on the balance of probabilities, it does not hold the information requested.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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

Pamela Clements
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Wycliffe House
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Wilmslow
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SK9 5AF