

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 February 2019

**Public Authority:** Lancashire Care NHS Foundation Trust

**Address:** Sceptre Point, Sceptre Way,  
Walton Summit, Bamber Bridge,  
Preston PR5 6AW

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to a new post created by Lancashire Care NHS Foundation Trust (the trust).
2. The Commissioner's decision is that the trust has complied with its obligations under section 1 of the FOIA.
3. The Commissioner does not require the public authority to take any steps.

#### Request and response

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4. On 11 June 2018, the complainant wrote to the trust and requested information in the following terms:

*"A new post was created in July 2017, Network Clinical Lead for Quality Improvement (Community and Wellbeing Network).*

*In line with LCFT HR Job Evaluation Procedure HR026, I would like to request information relating to the job evaluation and banding process linked to this post i.e.*

- *On what date was the job description and person specification submitted to Employment Services for matching?*
- *What priority was assigned to this new post for job evaluation process (in line with 'Service Priority Matrices' – appendix 1)?*
- *On what date was the job evaluation process undertaken?*

- *Was this matching panel scheduled or 'extraordinary'?*
  - *Who was on the panel to make the decision regarding banding?*
  - *Was the post auto – assimilated? If so, to which existing or similar post?*
  - *Was any clarification sought by the panel to help them make a decision? If so, please provide the documentation of this.*
  - *Had all members of the panel received training in the NHS Job Evaluation scheme? If so, when?*
  - *Who undertook the consistency checking process in line with point 4.22?*
  - *When was the consistency checking process undertaken?*
  - *Please provide a copy of the records submitted for banding in line with the Agenda for change job submission system (Point 4.2 of procedure)*
  - *Please provide a copy of the records from the job matching panel evidencing how a decision was reached*
  - *Please provide a copy of the records linked to the consistency checking process”*
5. The trust responded on 3 July 2018 and provided the requested information. On 4 July 2018 the complainant requested that the embedded pdf documents be supplied to her separately. The trust responded the same day and provided the documents.
6. On 5 July 2018 the complainant wrote to the trust again and requested that two of the documents be provided to her in Microsoft Word. The trust responded on 13 July 2018 and stated that it considered it had already complied with its obligations under the FOIA. A further request was made for 'Job matching justification form for post 3750 – Clinical Lead for Quality Improvement' to be provided, also in Microsoft Word.
7. The trust responded on 17 July 2018 and provided a Word version of the document requested. It stated that it had applied its discretion in doing so.
8. The complainant disputed that it had provided the original word document. The same day she made a further request for the original document, stating:
- “based on the premise that different information is accessible from the original word document than a PDF or newly saved word document. I understand that this is within my rights of freedom of information and this information has a direct bearing on a work situation.*
- I would like to receive in its original word format:*
- *Job matching justification form for post 3750 – Clinical Lead for Quality Improvement”*

9. The trust responded on 30 July 2018 and stated that it had already provided the document and that it was the only word version held. Following an internal review the trust wrote to the complainant on 22 August 2018. It maintained that it had complied with its obligations under the FOIA.

### Scope of the case

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10. The complainant contacted the Commissioner on 24 September 2018 to complain about the way her request for information had been handled.

11. In her complaint to the Commissioner she stated:

1. *The Trust stated that I should have made it clear in my original request that I required the information in a particular format and that PDF was the normal format for providing information. Trust guidance does not make it clear that this is required in the original request. When I enquired earlier this year about how to submit an FOI request, I was advised to put my questions into an email. There was no clear guidance within the FOI policy on how to submit a request.*

2. *I gave a clear explanation of why I was requesting the information in its original document format i.e. that the documents that had been provided did not show me the date of creation. There is no evidence that the Trust considered my explanation, which provided a justified rationale to my request, in the internal review".*

12. After a preliminary assessment the Commissioner wrote to the complainant on 15 November 2018, advising that in her view, the trust had complied with its obligations under the FOIA, and invited the complainant to withdraw her complaint. The Commissioner also advised that the reason for requesting information was not relevant as the FOIA is 'applicant and motive blind'.
13. On 20 November 2018, the complainant wrote to the Commissioner advising that she wished to proceed with her complaint. The Commissioner therefore considers the scope of this request to be to determine if the trust has complied with its obligations under the FOIA.

## Reasons for decision

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14. Section 1 of FOIA states:

*"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. As can be seen from the correspondence outlined above, the trust provided her with the information requested in response to her original request on 3 July 2018. It also went further than required by providing the embedded documents as separate pdf documents.

16. With regard to the second request, the complainant asked the trust for the information to be provided in the specific format of Microsoft Word, which it did on 17 July 2018.

17. Section 1(b) above states that if information is held, a person is entitled to have that *information* communicated to them.

18. It is common practice for public authorities to provide copies of original documents, not the documents themselves, as they are often in a 'hard' copy format. However, the FOIA does not provide a requestor with a right to original documents, only the information they contain.

19. Section 8 states that a request for information must "*describe the information requested.*" The information requested is described as "*in its original word format*".

20. Section 11 concerns how information requested under the FOIA is to be provided to the requester, where the requester has expressed a particular preference.

21. In this case, in her request of 5 July 2018 the complainant expressed a preference for the information to be provided in Microsoft Word and "*in its original word format*". The trust provided the information in Microsoft Word and in its original word format (but not the original created word document). Therefore, in all the circumstances of this case, the Commissioner is satisfied that the trust has complied with its obligations under section 1 of the FOIA.

22. However, in this particular case it appears that the complainant was actually requesting the metadata associated with the original created word document.
23. When an electronic document is created and subsequently worked on, information about its properties is automatically generated and stored. This information records details such as the author, dates, editing history, size, file paths, security settings and any email routing history. It is commonly known as metadata. Metadata is recorded for the business purposes of the public authority and is used in their records management. The Lord Chancellor's code of practice on the management of records issued under section 46 of FOIA promotes the recording of metadata at paragraph 9.3(e).
24. In addition, when an electronic document is produced information on its formatting such as the fonts used, headings and other style settings is also automatically recorded. Such information can be viewed in the relevant format menus of the software program. As with metadata, this information is held for the purposes of FOIA.
25. If an applicant specifically requests information on the properties of an electronic document, public authorities will be obliged to provide it, subject to other provisions in the FOIA. However, if it is not requested there is no expectation that public authorities will provide it.
26. As is her usual practice in cases such as this, the Commissioner asked the trust what actions it had taken in order to locate the original word document. It confirmed that it searched a number of data sources including personal and team email accounts, shared drives and the in-house database. It also searched the Employment Services folder and used a variety of search methods, for example the Agenda for Change (AfC) reference number and job title but was unable to find this specific document.
27. The trust also explained that, AfC records are kept to allow roles to be revisited, roles to be easily amended/changed over time, for recruitment and retention initiatives and for any future claims/disputes on the content and duties of a role.
28. It is clear to the Commissioner from the searches it has carried out that the trust no longer holds the original word version of the document and is therefore unable to provide the metadata associated with it.

## Other Matters

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29. The complainant also raised the concern that she was not provided with appropriate details on how to make a request for information.

The Commissioner has visited the trust website and following a search established that the trust has details of the FOIA at the following link:

<https://www.lancashirecare.nhs.uk/freedom-of-information-act>

30. It also provides a further link to a leaflet that gives more details about its obligations and how to make a request. The Commissioner considers that this provides adequate information. However, the complainant in this case was simply told *"You just need to send the questions you would like answering in either an email or letter"*.
31. The Commissioner considers that the trust should ensure that staff are able to sign post requestors to the correct information on how to make a request, regardless of whether they are staff or members of the public. It may also wish to consider providing a template or standard form for information requests.

## Right of appeal

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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: 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)

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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**