

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 March 2021

Public Authority: NHS Herefordshire and Worcestershire Clinical Commissioning Group

Address: The Coach House
John Comyn Drive
Worcester
Worcestershire
WR3 7NS

Decision (including any steps ordered)

1. The complainant has requested "*copies of Herefordshire CCG and NHS Continuing Healthcare Funded Care Reports for the last five years*". NHS Herefordshire and Worcestershire Clinical Commissioning Group (the CCG) provided the complainant with some information falling within the scope of the request. During the course of the Commissioner's investigation, the CCG provided the complainant with further information falling within the scope of the request.
2. The Commissioner's decision is that the CCG has not complied with its obligations under section 1(1) and section 10(1) of the FOIA.
3. Since the request has now been responded to, the Commissioner does not require the CCG to take any steps as a result of this decision notice.

Request and response

4. On 5 September 2019, the complainant made the following request for information from the CCG:

"This is a FOI Request; Please buy copies of Herefordshire CCG and NHS Continuing Healthcare Funded Care Reports for the last five years."
5. The CCG responded on 12 November 2019. It stated that:

"I am able to provide you with links to the websites of both NHS England and NHS Digital, which contain reports regarding CHC for all CCGs, including Herefordshire:

<https://www.england.nhs.uk/statistics/statistical-work-areas/nhs-chc-fnc/>

<https://digital.nhs.uk/data-and-information/publications/statistical/nhscontinuing-healthcare-activity>

I am also awaiting further confirmation from CHC regarding whether there is a further internal report which can be provided."

6. The complainant requested an internal review of this response on 10 March 2020, stating that the question had not been answered.
7. The CCG sent the complainant the outcome of its internal review of this request on 9 April 2020, but this did not address whether there were any further reports held.

Scope of the case

8. The complainant contacted the Commissioner on 15 February 2020 to complain about the way her request for information had been handled. In particular, the complainant was concerned that the CCG had not fully answered her request for information.
9. In line with her usual practice, the Commissioner wrote to the CCG on 16 November 2020 asking it to revisit the request. In particular, the Commissioner asked the CCG to confirm whether it held any further reports.
10. The CCG wrote to the complainant on 14 December 2020 and provided her with spreadsheets detailing Funded Care reports that it sends to NHS England on a quarterly basis to be published on NHS England's website.
11. The Commissioner wrote to the complainant on 15 February 2021 advising that there did not appear to be any further matters to investigate and asked whether she was prepared for the matter to be closed or wished to proceed to a decision notice.
12. The complainant responded on 16 February 2021, asking about the implications of a decision notice. The complainant accepted that the CCG seemed to have answered her question but was concerned about the time and effort it took for her request to reach a conclusion.

13. The Commissioner wrote to the complainant on 17 February 2021 explaining her role and the implications of a decision notice.
14. The complainant responded to the Commissioner on 28 February 2021, asking her to prepare a decision notice for this case.
15. The Commissioner therefore considers that the scope of this case is to determine whether the CCG has complied with its obligations under section 1(1) and section 10(1) of the FOIA.

Reasons for decision

16. Section 1(1) of the 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.
17. Section 10(1) of the FOIA says that a public authority should comply with section 1(1) promptly and by no later than the twentieth working day following the date of receipt.
18. In the circumstances of this case, the total time taken by the CCG to confirm what information it held falling within the scope of the request and provide the complainant with all of that information exceeded 20 working days. The Commissioner therefore considers the CCG to have breached section 1(1) and section 10(1) of the FOIA in this case.

Right of appeal

19. 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@justice.gov.uk

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

20. 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.
21. 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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