

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 June 2023

**Public Authority:** Harrogate Integrated Facilities Ltd  
**Address:** 17 Wetherby Road  
Harrogate HG2 7RY

#### **Decision (including any steps ordered)**

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1. The Commissioner's decision is that, on the balance of probabilities, Harrogate Integrated Facilities Ltd (HIF) didn't hold the information about its publication scheme that the complainant requested and complied with section 1(1) of FOIA.

#### **Background**

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2. HIF is a wholly owned subsidiary of Harrogate and District NHS Foundation Trust ('the Trust') and was formerly called Harrogate Healthcare Facilities Management Ltd (HHFM).
3. The complainant had previously submitted a request to HHFM about its publication scheme which resulted in the Commissioner's decision in FS50902137 in February 2020. That decision instructed HHFM to provide the complainant with a response to their request; it didn't instruct HHFM to produce a publication scheme.

#### **Request and response**

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4. In 2022 the complainant made the following, new information request to HIF:

"[1] What measures have HHFM Ltd put in place to adopt and maintain a Publication Scheme in compliance with Section 19 of the Freedom of Information Act since the Information Commissioner gave Notice (ref.FS50902137, dated 18th February 2020) to HHFM Ltd of the requirement to do so? [2] I should also be grateful to receive details of the documents publicly available under the Scheme (such as policies and procedures, minutes of meetings, annual reports and financial information) and how access to them can be made."

5. The Trust responded to the request on 15 November 2022. It said that the policies that apply to it also apply to HIF.
6. The Trust didn't provide an internal review in response to the complainant's request for one or the Commissioner's subsequent instruction to the Trust, in February 2023, to provide a review. In April 2023, however, the Trust advised the complainant that HIF was in the process of developing its own publication scheme.

### **Reasons for decision**

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7. The complainant is concerned that they submitted their request to HIF, but the Trust had responded to it. That will be discussed under 'Other Matters', as will the matter of HIF's publication scheme.
8. The Commissioner's decision is focussed on whether HIF holds information in scope of the complainant's 2022 request.
9. Under section 1(1) of FOIA a public authority must (a) confirm whether or not it holds information an applicant has requested and (b) communicate the information to the applicant if it's held and isn't exempt information.
10. The second part of the request is for details of documents available under HIF's publication scheme.
11. For the reasons discussed under 'Other Matters', the Trust provided a submission to the Commissioner on HIF's behalf. The Trust noted that the original response in 2020 following the Commissioner's first decision notice, stated that the Trust and HHFM/HIF operated under the same publication scheme. At that point in time strategies, policies and procedures covered by the publication scheme were joint between the two organisations. Therefore, a separate publication scheme solely for HIF didn't exist and couldn't be provided. The Trust confirmed that was the case in 2020 and remained the case at the time of the 2022 request.

12. The Commissioner accepts that, because a discrete HIF publication scheme still didn't exist at the time of the complainant's 2022 request, HIF didn't hold the information requested in the second part of the request.
13. The first part of the complainant's request is for information on the measures HIF has put in place to adopt and maintain a publication scheme. The Commissioner advised HIF that "measures" might be email discussion or meeting minutes – anything in which a publication scheme for HIF was discussed. He also advised it should be information that was held at the time of the request, not any new information that may be held now.
14. In its submission to the Commissioner, the Trust confirmed that at the time of the 2022 request, "there were no 'measures' available." This is because at that time the Trust was still managing one publication scheme that covered both it and HIF, as discussed above.
15. The Trust has gone on to explain that in more recent months HIF has developed strategies, policies, social media and governance arrangements that are unique to HIF. It has therefore been decided that a separate publication scheme, accessible on HIF's newly developed website is needed. The Trust confirmed what it has previously advised the complainant and the Commissioner; that such a publication scheme has been developed and is in the process of being uploaded on to HIF's website.
16. It appears to the Commissioner that it is only in more recent months, during 2023, that the Trust and HIF have discussed the matter of HIF having its own publication scheme. No discussion appears to have taken place between the Commissioner's decision in 2020 and the complainant's second request in 2022. The Commissioner will therefore accept that, on the balance of probabilities, no recorded information within scope of the first part of the 2022 request was held at the time of that request.
17. The Commissioner's decision is therefore that HIF complied with section 1(1)(a) of FOIA.

## **Other matters**

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18. In its submission to the Commissioner, the Trust has explained the relationship between HIF and the Trust in relation to how FOIA requests are processed. As has been noted, HIF is a wholly owned subsidiary of the Trust. As part of that relationship there is a Service Level Agreement (SLA) whereby HIF utilises elements of the Trust's corporate functions.

19. The administrative arrangements for FOIA requests are currently part of this SLA. Operationally, this means that requests are logged and tracked on a database held within the Trust.
20. All FOIA requests related to HIF are submitted to the HIF Managing Director and the relevant Senior Managers for their response. And all the responses are reviewed and approved by a HIF Director or Senior Manager.
21. Once the response has been approved, this is recorded on the database the Trust holds and the response is sent to the requestor via the Trust's FOIA Team.
22. The Commissioner considers that the arrangement between the Trust and HIF for managing FOIA requests is an appropriate one and doesn't have any concerns about it.
23. Finally, the matter of HIF's publication scheme. As a subsidiary company wholly owned by the Trust, HIF is a public authority in its own right. All public authorities have a duty under section 19 of FOIA to adopt and maintain a publication scheme.
24. The Trust has explained that, previously, its publication scheme also covered HIF. However, in recent months, HIF has produced its own publication scheme, and this is in the process of being uploaded to HIF's website.
25. The Commissioner notes that the scheme doesn't appear to be published on HIF's website at the date of this notice. He expects HIF's publication scheme to be published without too much further delay and would like HIF or the Trust to let both him and the complainant know when it is 'live'.

## Right of appeal

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26. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

27. 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.
28. 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

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**