

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 April 2024

Public Authority: University College London Hospitals NHS Foundation Trust

Address: 250 Euston Road
London
NW1 2PG

Decision (including any steps ordered)

1. The complainant has requested information about financial support received by Sonacare Ltd concerning urology functions or associated research. University College London Hospitals NHS Foundation Trust ('the Trust') relied on section 21 of FOIA (information accessible by other means) to refuse the request.
2. The Commissioner's decision is that the Trust is entitled to rely on section 21 of FOIA to withhold the requested information.
3. The Commissioner cannot consider the accuracy of the relevant information the Trust holds. He therefore does not require the Trust to take any steps as a result of this decision notice.

Request and response

4. On 29 September 2023, the complainant wrote to the Trust and requested information in the following terms:

"Please supply details of industry support received by Urology Consultants and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital from Sonacare Inc. or Sonacare Medical (The Company) for the period 1st September 2018 to the present in PDF format as follows;

1. fees for medical consultancy received by individual consultant urologists and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital from The Company;
2. funding to support medical trials and/or medical research involving 'Sonablate 500' HIFU equipment received by individual consultant urologists and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital from The Company;
3. fees for lecturing received by individual consultant urologists and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital from The Company;
4. proctoring fees received from The Company by individual consultant urologists and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital for training surgeons in use of 'Sonablate 500' HIFU equipment;
5. staff travel, accommodation or other expenses received from The Company by individual consultant urologists and/or University College Hospitals NHS Foundation Trust and/or University College London Hospital to attend conferences”
5. The Trust responded on 27 October 2023. It stated that it had not received income in relation to question two of the request, and provided links to interests, gifts and hospitality declaration registers for information concerning the rest of the questions in the request. The Trust advised that the information was therefore exempt from disclosure under section 21 of FOIA.
6. Following an internal review, the Trust wrote to the complainant on 10 January 2024. It provided copies of the gift and expenditure registers 2018-2021 referenced in its response and maintained its application of section 21 of FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 12 December 2023 to complain about the way their request for information had been handled. The complainant expressed dissatisfaction with the application of section 21 of FOIA and stated that the registers signposted by the Trust were incomplete as some of the entries did not have figures against them.

8. The Commissioner considers that the scope of his investigation is to determine whether the Trust is entitled to rely on section 21 of FOIA to withhold the requested information.

Reasons for decision

Section 21 – Information Accessible by other means

9. Information is exempt from disclosure under FOIA if it's accessible to the requestor by other means.
10. Section 21 is an absolute exemption. This means if section 21 applies there is no requirement to carry out a public interest test.
11. Unlike most exemptions, the circumstances of the requestor can be considered, as the information must be reasonably accessible to the particular requestor.
12. The Commissioner considers that it's reasonable for a public authority to assume that information is reasonably accessible to the requestor until it becomes aware of any evidence to the contrary.
13. The complainant has communicated with the Trust via email. Therefore, it's a reasonable assumption that the complainant has access to the internet and can access the requested information via the links to its website that the Trust has provided.
14. In their internal review request, the complainant stated that the some of the information included in the interests, gifts and hospitality registers was incorrect. They provided a number of research paper articles that mention funding received from Sonacare Ltd by consultants named in the register.
15. The Trust has explained that information within scope of the request would be found in its registers of interests, gifts and hospitality. The Trust explained that it asked its company secretary to supply copies of the register of interests for each year relevant to the request in case there were declarations recorded that weren't available on the current published register.
16. Having reviewed the interests, gifts and hospitality registers for 2018-2021, the Trust stated it found no reference to Sonacare Inc. or Sonacare Medical. It therefore considered that the only declarations concerning Sonacare were found on the 2022 register. It advised the complainant that the 2023 register would be published on its website in due course and this could be accessed via the link provided.

17. In its internal review response, the Trust advised the complainant as follows: "The role of the Freedom of Information team is provide information in response to requests and not to assess if consultants have disclosed interests accurately. Should you wish to query the declarations you can contact the consultants through the website"
18. In its internal review response and submission to the Commissioner, the Trust has stated that it does not hold further information in scope of the request as it is reliant on individual consultants providing the details of any interests, gifts and hospitality monies received.
19. The Commissioner has considered the complainant's comments about the way that their request has been handled. However, he has noted that the main issue of the complaint, that is, the accuracy of the information, is outside the scope of FOIA and is beyond what the Commissioner can investigate as part of his remit.
20. The Commissioner has therefore looked at what's being requested and the links that the Trust provided. He's satisfied that the information the Trust has provided, via its website, fulfils the request, and that, on the balance of probabilities, the Trust has provided the complainant with all the information held, in relation to their request.
21. The Commissioner is therefore satisfied that the Trust was entitled to apply section 21 to refuse the request.

Right of appeal

22. 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

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

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Keeley Christine
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