

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 April 2013

Public Authority: East Midlands Ambulance Service NHS Trust
Address: Ambulance HQ
1 Horizon Place
Mellors Way
Nottingham Business Park, Nottingham
NG8 6PY

Decision (including any steps ordered)

1. The complainant has requested information relating to the proposed changes outlined in the 'Being the Best' consultation document. East Midlands Ambulance Service NHS Trust (EMAS) provided some information to the complainant but said that further information was not held under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA). It said that it would exceed the cost limit under section 12 FOIA to comply with one part of the request.
2. The Commissioner's decision is that EMAS correctly stated that no further information was held relevant to the scope of the request other than the information requested at part 7 of the request. However the Commissioner does consider that it would exceed the cost limit under section 12 FOIA to comply with part 7 of the request. As the Commissioner considers that section 12 FOIA was correctly applied to part 7 of the request, the rest of the request could have been aggregated and therefore section 12 FOIA would apply to all of the request. The Commissioner does not consider that EMAS provided the complainant with sufficient advice and assistance in relation to part 7 of the request under section 16 FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with advice and assistance under section 16 FOIA in relation to part 7 of the request.

4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 30 October 2012, the complainant wrote to EMAS and requested information in the following terms:

"Please can you provide me with a copy of any associated/more detailed information, reports, papers etc relating to the proposed changes very briefly outlined in your 'Being the Best' consultation document.

Can you also please ensure you include information on the following aspects if this is not already covered in the information you will be providing in response to this request :

- 1) How many vehicles do you have in your fleet i.e. ambulances, fast response vehicles etc ?

- 2) Information about where these vehicles are currently based i.e. where the locations are currently (names of towns/villages) and how many at each base

- 3) Information about how these vehicles would be distributed under the proposed new arrangements?

- 4) Information about the locations (towns/villages) of the proposed new facilities showing which will be the proposed Community Ambulance Points, Standby Points Tactical Deployment Points and hubs along with a brief description of what facilities would be available at each type of location

- 5) Information on the various types of facilities and locations which are currently used. This to include all non formal as well as formal settings?

- 6) Details of which hubs will service which other posts/points, but

particularly providing information about which hub it is proposed will be used by ambulances serving South Lincolnshire and Rutland

7) Details of the number of times a day and the various reasons why a vehicle might be required to return to the hub.

8) Details of how existing staff will be affected by the proposed changes i.e. longer journey times to work etc

9) Details of any consultations or studies that were undertaken prior to these plans being put out for public consultation.

10) Details of how the proposed geographical locations were selected"

6. On 30 October 2012 EMAS responded. It provided the complainant with a board paper which it said contained the information she required. After further correspondence between the complainant and EMAS, the complainant asked EMAS to carry out an internal review on 4 December 2012. EMAS sent the outcome of the internal review on 19 December 2012. It provided the complainant with information in relation to each of the 10 points of the request.
7. The complainant submitted a complaint to the ICO on 31 December 2012 as she did not consider that EMAS had responded fully to her requests.

Scope of the case

8. The complainant contacted the Commissioner on 31 December 2012 to complain about the way her request for information had been handled.
9. The Commissioner has considered whether EMAS holds any further information within the scope of PARTS 3-6 and 8-10 of the requests and whether or not EMAS was obliged to comply with part 7 of the request under section 12 FOIA.

Reasons for decision

10. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request". In this case the EMAS has stated that at the time of the request it did not hold any further information, other than that which was provided to the complainant. .
11. In this case the complainant considers that EMAS did not provide her with a full response to parts 3-9 of her request. The Commissioner has therefore gone through parts 3-9 of the request in turn.

Part 3 of the request

12. EMAS explained that at the time the request was made and at the time the internal review was undertaken the only information available regarding the distribution of vehicles was at a high level. It said that this was contained within a report produced for the Trust by consultants (Report into Estates Strategy Optimisation and Modelling for EMAS (FOI-12-090 – EMAS Estates Hub and Spoke Optimisation v1.0)) and also a report presented to the Trust Board in July 2012 (FOI-12-090 – Being there for Patients – Our Programme to Improve Response Times). It confirmed that both reports were released to the complainant.
13. It said that in order to search for information in relation to this request the Business Manager who was the lead on the Being the Best consultation process (the work which the information request centres around), was contacted. He reviewed the electronic and paper records he held and those held centrally by the team to determine that the only information held in relation to the location of vehicles was that detailed in the response to the complainant. All documentation relating to the consultation process is held in one place and as the number of records is limited it was possible to review all records and therefore was not necessary to use search terms. The Business Manager also confirmed that at that stage more detailed information in relation to the vehicles required under the new proposals had not been produced.
14. The Trust said that the complainant queried why information on the distribution of vehicles under the proposed new arrangements was not available at the time of her request. The Trust explained that work is currently underway as part of the development of the Trust's Fleet Strategy to identify the number of vehicles required. A decision was made to undertake this work after the public consultation exercise as any revision to the proposals on estates and operational arrangements would impact on the number of vehicles required. It said that the Fleet

Strategy will be presented to the Trust Board in March 2013 but this was not available at the time the request was made or when the internal review was undertaken.

15. It said that the complainant was seeking the breakdown of vehicles between the three key areas (Derbyshire/Nottinghamshire, Leicestershire/Rutland/Northamptonshire and Lincolnshire) but confirmed that this had not been determined at the time. It reiterated that no other recorded information on the proposed distribution of vehicles was held at the time of the request.
16. The complainant has argued that the requested information should have been held by EMAS at the time the request was made.
17. Based upon the submissions provided by EMAS. The Commissioner accepts, that on the balance of probabilities, no further information was held at the time of the request. EMAS has confirmed that further information is now held, which is due to be presented to the Trust Board imminently, however this was not held at the time of the request.

Part 4 of the request

18. The Trust explained that the complainant was provided with a list of proposed locations for hubs and tactical deployment points. It said that this was the list which the Trust had been working on for some time and was included in the report presented to the Trust Board in July 2012 (FOI-12-090 – Being there for Patients – Our Programme to Improve Response Times) and was also included in the Process Evolution report referred to above (Report into Estates Strategy Optimisation and Modelling for EMAS (FOI-12-090 – EMAS Estates Hub and Spoke Optimisation v1.0)). EMAS reiterated that both documents were provided to the complainant.
19. EMAS explained that the list of locations may change and is currently being reviewed by the Trust in the light of the feedback from the consultation exercise, however at the time of the request and the internal review this was the only information held. It also said that at the time of the request for information and the internal review there was no information on the facilities which would be available at each location. It said that this is currently being worked on.
20. EMAS said that the complainant questioned the Trust's response to this request based on information she had noted in minutes of the Trust Board meetings. She has referred to an action from a Board meeting where it was agreed that some of the proposed tactical deployment points would be introduced immediately. These are locations used as standby points where EMAS crew members wait in their vehicles to

receive the next call. The Process Evolution work had indicated that use of these locations as bases from which to deploy crews would be more effective than continuing to use the existing standby points. No buildings or facilities needed to be provided as these were locations such as a layby or car parks. It was therefore possible to start using them immediately without any need for building work. The decision was made on the basis of patient safety as it was important to respond to calls as quickly as possible. Work is still underway to confirm the final list of locations. As no changes were needed to buildings before using the new tactical deployment points the decision was not irreversible. These locations can be changed if necessary once the final list of locations is agreed.

21. EMAS explained that the complainant stated that the information provided was not recorded information and had been created for her reply. It said that it listed the locations in the response to the complainant for ease of reference, however EMAS also provided the report from the July Board meeting and the Process Evolution report, both referred to above, which was the source of this information.
22. The complainant was also seeking information on which of the tactical deployment points would be Community Ambulance Points and which would be Stand by Points. It said that this is still being determined and was therefore not available at the time of the request. The lead for the project confirmed that the information included in the Board report and the Process Evolution report was the latest information available at the time the request was made.
23. Again based upon the submissions provided by EMAS the Commissioner accepts, that on the balance of probabilities, no further information was held, other than that which was provided, at the time of the request.

Part 5 of the request

24. EMAS explained that the complainant was provided with a list of ambulance stations and other buildings and sites used by the Trust. As the list of ambulance stations and other buildings was readily available it was not necessary to undertake any searches to identify the information.
25. EMAS said that it interpreted the request as requiring information on the type of facility ie. ambulance station, deployment point or administrative building. It said that it did not consider the request was for details of the amenities within each of the buildings. However it now recognises that the complainant was requesting this information. It said that this information is not currently documented in respect of each ambulance station and therefore there is no record it can provide to the

complainant. This was confirmed by the General Manager, Estates who is responsible for the Trust's estate. He was able to provide verbal information about the facilities at stations from his knowledge of the buildings but confirmed that there were no written records which detail the facilities at each station. It confirmed that all ambulance stations currently have toilet facilities, lockers, a mess room, a kitchen, a store room and office accommodation and most but not all have garages.

26. Finally it said that the complainant had asked for a copy of the current standby points in her internal review submission. This had not been requested as part of her original request for information. It said however that this information had now been provided to the complainant.
27. Again based upon the submissions provided by EMAS the Commissioner accepts, that on the balance of probabilities, no further information was held, other than that which was provided, at the time of the request.

Part 6 of the request

28. EMAS said that this request was discussed with the Business Manager leading the Being the Best consultation process. He confirmed that this information was not available as at that stage the Trust had not determined which of the hubs would service other posts/points. As the lead for the project had confirmed that this work had not yet been done it was not necessary to undertake any search for records.
29. EMAS said that it acknowledges that the complainant considers that the Trust should have undertaken some calculations or outline planning in order to determine which hubs would provide vehicles to specific community ambulance posts and standby points or tactical deployment points. The proposed location of hubs and tactical deployment points was provided for the public consultation exercise but at that stage tactical deployment points had not been linked to hubs. This detailed work is currently underway and will inform the business plan to be presented to the Trust Board in March 2013.
30. Based upon the submissions provided by EMAS, the Commissioner considers that on the balance of probabilities the requested information was not held at the time of the request.

Part 7 of the request

31. EMAS explained that representatives from the Business Intelligence Unit, which is responsible for generating the Trust's performance management information, were asked if this information was held. Also staff members in the Emergency Control Centre were consulted in relation to this request. Both teams confirmed that the information

requested was not available. The only way of identifying this information would be to interrogate the system used to record resources allocated to each call and determine when vehicles currently return to base. It would be necessary to examine the sequence of events log for every ambulance over the period in question to generate this information and this would take a significant amount of time. It said that the complainant was informed that it was unable to provide the information for this reason in the internal review.

32. EMAS explained that it is aware that the complainant has obtained this information from other ambulance trusts but this is not information which EMAS currently generates.
33. EMAS explained that the complainant is of the assumption that work had been done on estimating and costing the number of trips a vehicle may make to the hub under the proposed arrangements. It confirmed that the modelling undertaken has not included this and therefore there is no information to provide.
34. Based upon the submissions provided by EMAS, the Commissioner considers that it does hold information within the scope of this part of the request. However as EMAS has indicated that to obtain this information would take a significant amount of time, the Commissioner has considered whether it would exceed the cost limit under section 12 FOIA to comply with this part of the request as detailed from paragraph 47 onwards.

Part 8 of the request

35. EMAS explained that the complainant was provided with a report entitled "EMAS Estates Hub and Spoke Optimisation V1.0". This stated that travel time to work would increase from on average 17.4 minutes to on average 21.5 minutes. It confirmed that the report provided to the complainant was held in electronic form.
36. EMAS said that in order to search for information in relation to this part of the request, the Business Manager who was the lead on the Being the Best consultation process was contacted. He reviewed the electronic and paper records he held to determine that the only information held in relation to the impact on staff was that detailed in the response to the complainant. It said that all documentation relating to the consultation process is held in one place and as the number of records is limited it was possible to review all records and was therefore not necessary to use search terms. It explained that the Business Manager also confirmed that at that stage more detailed information on the impact on staff was not available.

37. EMAS acknowledged that the complainant was looking for all the ways that staff were likely to be affected by the proposals and not just journey time. However it said that this was not how it had interpreted this part of the request originally and therefore it provided information on journey time only. It explained that the purpose of the public consultation was in part to determine the views of staff in relation to the proposals. This information was included in the paper which summarised the outcome of the consultation exercise and was presented to the Trust Board on 10 January 2013 ('Being the Best' Consultation Response Report). The paper is publicly available on the Trust website and was sent to the complainant in a separate FOIA request she made to the Trust.
38. Based upon the submissions provided by EMAS the Commissioner accepts, that on the balance of probabilities, no further information was held, other than that which was provided, at the time of the request.

Part 9 of the request

39. EMAS explained that a company was employed to undertake some modelling work to inform the proposals in relation to service changes. It said that various versions of the modelling were produced based on different assumptions put forward by the Trust. It confirmed that the final version of the report was produced on 6 November and was provided to the complainant.
40. It again explained that in order to search for information in relation to this part of the request, the Business Manager who was the lead on the Being the Best consultation process was contacted. He reviewed the electronic and paper records held and confirmed that no other information was available in relation to studies. It reiterated that all documentation relating to the consultation process is held in one place and as the number of records is limited it was possible to review all records and not necessary to use search terms.
41. EMAS went on to explain that the Commercial Director who was the lead director for this project was also approached in order to gain information to respond to this part of the request. He confirmed that the only study undertaken prior to the public consultation was the work described at para 40 above.
42. EMAS explained that a period of pre-consultation was carried out between February and September 2012. This included meetings with Members of Parliament and the Overview and Scrutiny Committees. Details of this pre-consultation work is contained in the paper presented to the Trust Board on 10 January and referred to above ('Being the Best' Consultation Response Report).

43. Based upon the submissions provided by EMAS the Commissioner accepts, that on the balance of probabilities, no further information was held, other than that which was provided, at the time of the request.

Part 10 of the request

44. EMAS explained that the complainant was provided with a copy of the report referred to above (Report into Estates Strategy Optimisation and Modelling for EMAS (FOI-12-090 EMAS Estates Hub and Spoke Optimisation v1.0)) which explains the methodology for selecting the geographical locations. It said that the Business Manager who took the lead for the project confirmed that this was the only information available in relation to geographical locations.
45. EMAS said that in the response to the internal review the complainant was directed to the specific sections of this report which detailed the geographical locations listed by her.
46. Based upon the submissions provided by EMAS the Commissioner accepts, that on the balance of probabilities, no further information was held, other than that which was provided, at the time of the request.

Section 12

47. As the Commissioner found that the information requested at part 7 of the request was held, but EMAS had explained that it would take a significant amount of time to comply with this part of the request, he has considered whether section 12 would be applicable in this case.
48. Section 12(1) of the FOIA states that, "Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."
49. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the "Regulations") sets the appropriate limit at £450 for the public authority in question. A public authority can charge a maximum of £25 per hour for work undertaken to comply with a request which amounts to 18 hours work in accordance with the appropriate limit set out above. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:
- (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,

(c) retrieving the information, or a document which may contain the information, and

(d) extracting the information from a document containing it.

50. To determine whether EMAS applied section 12 correctly the Commissioner has considered the submissions it provided on 9 April 2013.

51. EMAS said that to locate the information it would be necessary to access the Trust's Computer Aided Dispatch computerised system and generate an individual daily sequence of events log for each vehicle. It estimated that it would take on average 5 minutes to generate and print each sequence of events log. It said that the complainant had not indicated the time period for which she required the information so it based the calculations on data covering one year:

Estimate:

500 vehicles X 365 days = 182,500 sequence of events logs
X 5 minutes per log = 15,208 hours

Estimated cost: £380,200

52. EMAS explained that the details contained within each of the sequence of events logs would need to be reviewed in order to extract information relating to vehicles returning to ambulance stations. It said that the length of document will vary but it provided the Commissioner with an example picked at random which totalled 39 pages long and therefore would take some time to review. It is estimated that it would take 10 minutes on average to review each document and extract information relating to vehicles returning to stations. It explained that codes are often used within the reports to provide the reason for a vehicle returning to a station. These codes are not explained within the report and therefore this information would also need to be obtained. It is estimated it would take 10 minutes per log to source and record this information. Extraction of the information would therefore take 20 minutes for each sequence of event log.

Estimate: 182,500 logs X 20 minutes = 60,833 hours

Estimated cost: £1,520,825.

53. EMAS explained that the time and cost estimates are based on the only recorded information available to it regarding vehicle journeys and therefore are based on the quickest method of gathering the requested information.

54. The Commissioner considers that EMAS has demonstrated that to comply with part 7 of the request would vastly exceed the cost limit under section 12 FOIA. EMAS was not therefore obliged to comply with part 7 of the request. As the other parts of the request were for the same or similar information, EMAS would not have been obliged to comply with the whole of the request. This is because requests for the same or similar information made within 6 months of one another can be aggregated.

Section 16

55. Under section 16 FOIA, public authorities are obliged to provide complainants with advice and assistance if a request would exceed the cost limit to comply with a request.
56. EMAS said that it did not provide any advice to the complainant in refining the request, however it did offer her a discussion with the Commercial Director so that she could find out more about the Being the Best consultation exercise to which her request related. It said that this would have provided an opportunity to explore the availability of specific information.
57. The Commissioner does not consider that EMAS fulfilled its obligations under section 16 FOIA by offering to discuss the Being the Best Consultation exercise with the complainant. He considers that EMAS should have provided more specific advice in relation to part 7 of the request by considering whether the request could be refined so that it could be dealt with within the cost limit.

Right of appeal

58. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

59. 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.

60. 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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