

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2014

Public Authority: Luton Clinical Commissioning Group
Address: The Lodge
4 George Street West

Luton

LU1 2BJ

Decision (including any steps ordered)

The complainant has requested information from Luton Clinical Commissioning Group (CCG) regarding an unsuccessful application for funding. The Commissioner's decision is that Luton CCG has failed to deal correctly with some elements of the request under FOIA.

The Commissioner requires Luton CCG to take the following steps to ensure compliance with the legislation.

- To issue a response to parts 5,6 and 8 of the complainant's request under FOIA

Luton CCG 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

1. On 15 February 2013, the complainant wrote to what was then NHS Bedfordshire/Luton Primary Care Trust (now Luton Clinical Commissioning Group) and requested information in the following terms:

- (i) A copy of the funding refusal letter outlining the grounds for refusal
 - (ii) Full disclosure about the way this case has been handled so far
 - (iii) A complete copy of the minutes of the original application hearing
 - (iv) A complete set of all documents sent to the PCT regarding this funding application
 - (v) A confirmation of the job title, medical qualification, clinical qualification or any other relevant qualification of the people making the decision to refuse funding.
 - (vi) Copies of the PCT policies relating to the appeal process
 - (vii) Copies of the original application for funding letter that was sent to the PCT by my doctor, together with any evidence that was submitted
 - (viii) Copies of refusal letters from the PCT for similar applications
2. The complainant was not satisfied with the response he received to his request and wrote again, now to Luton CCG, requesting the information again. Having not received a response to that letter, the complainant then wrote again to Luton CCG on 4 April 2013, stating that he was now making the request under FOIA. Greater Eastern Commissioning Support Unit (CSU), who are tasked with responding to FOI requests on behalf of Luton CCG, responded on 8 April 2013. It stated that the information requested by the complainant was his own personal information and was therefore exempt from disclosure under section 40(1) of FOIA. That letter directed the complainant elsewhere and advised him to make a SAR (Subject Access Request) for the information.
3. On 22 April 2013 the complainant sought an internal review of Luton CCG's decision that the requested information was exempt from disclosure under section 40(1) of FOIA. The result of that review was sent to the complainant on 30 April 2013. The reviewer upheld the original decision.

Scope of the case

- 4. The complainant contacted the Commissioner on 9 May 2013 to complain about the way his request for information had been handled.
- 5. The Commissioner has considered the way in which the complainant's request was handled.

Reasons for decision

Section 10(1): Time for compliance

6. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
7. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
8. The Commissioner notes that the complainant made his request for information under FOIA on 4 April 2013. Luton CCG provided a response to the complainant on 8 April 2013, stating that the requested information was exempt from disclosure under section 40(1) of FOIA as it was the complainant's own personal information. However, the Commissioner has subsequently identified 3 parts of the complainant's request, i.e. parts (v), (vi) and (viii), which were not for the complainant's own personal information and should have been dealt with under FOIA. Therefore, in respect of those 3 parts of the complainant's request, Luton CCG has breached sections 1(1)(a) and 10(1) of FOIA.

Right of appeal

9. 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: GRC@hmcts.gsi.gov.uk

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

10. 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.
11. 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

Rachael Cragg
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SK9 5AF