

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 September 2015

Public Authority: Shropshire Clinical Commissioning Group
Address: William Farr House
Mytton Oak Road
Shrewsbury
Shropshire
SY3 8XL

Decision (including any steps ordered)

1. The complainant made a request to the Shropshire Clinical Commissioning Group ("the CCG") for details of its budget and information about its pathology service. The CCG failed to respond to the request.
 2. The Commissioner's decision is that the CCG has breached section 10(1) of FOIA by failing to respond to the request within 20 working days.
 3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The CCG shall inform the complainant whether the requested information is held. If the information is held it should provide it to the complainant or else issue a refusal notice in accordance with section 17 of FOIA.
 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.
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Request and response

5. On 2 May 2015 the complainant made a request for information to the CCG. The request was in fact submitted to the email address of the NHS Midlands and Lancashire Commissioning Support Unit who the Commissioner understands administers requests for information on behalf of the CCG. For the sake of clarity, the Commissioner considers that it is the CCG that is the proper public authority for the purposes of FOIA and this Decision Notice. The request read as follows:

"Please supply the following two / (three) figures for the CCG:

1. The total CCG budget for the financial year 2014-2015.

2. The total spent on Pathology services in the financial year 2014-2015 (PRIMARY CARE ONLY).

(3). If you are in a position to supply this - the total unit activity of Pathology services in the financial year 2014-2015 (PRIMARY CARE ONLY).

Items 1 and 2 will allow me to calculate by CCG the percentage of the CCG budget spent on open access Pathology. Items 2 and 3 will allow me to calculate the average unit cost of Pathology without requesting individual test or specific pricing information.

Please note to save any confusion; NHS England commissions GP services but CCGs pay for the Pathology tests those GPs send to their local laboratory under open/direct access arrangements."

6. The CCG failed to respond to the request within 20 working days and so on 10 June 2015 the complainant contacted the CCG again to ask that it respond without further delay.
7. On 15 June 2015 the CCG contacted the complainant to confirm that it was dealing with the request and hoped to respond soon.
8. On 28 July 2015 the complainant contacted the CCG again that he had still yet to receive a response to his request.

Scope of the case

9. On 1 August 2015 the complainant had still not heard from the CCG and contacted the Commissioner to complain about its failure to respond to his request for information.

10. Following receipt of the complaint the Commissioner contacted the CCG to remind it of its responsibilities under FOIA and to ask it to respond to the complainant as soon as practicable and in any event within 20 working days. Regrettably, the CCG failed to respond to either the complainant or the Commissioner.

Reasons for decision

Section 10 – Time for compliance with request

11. Section 10(1) of FOIA provides that a public authority must respond to a request promptly and in any event within 20 working days.
12. The complainant made his request for information to the CCG on 2 May 2015 but has failed to receive a response. The CCG has clearly exceeded the 20 working day limit and therefore the Commissioner has found that the CCG breached section 10(1) in its handling of the request.

Right of appeal

13. 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@hmcts.gsi.gov.uk

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

14. 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.
15. 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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SK9 5AF**