

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 April 2017

Public Authority: NHS Northern, Eastern and Western Devon
Clinical Commissioning Group

Address: Newcourt House
Newcourt Drive
Old Rydon Lane
Exeter, EX2 7JU

Decision (including any steps ordered)

1. The complainant has requested information relating to a consultation on community hospital beds.
2. The Commissioner's decision is that NHS Northern, Eastern and Western Devon Clinical Commissioning Group (the CCG) has breached section 10 (time for compliance) of the FOIA.
3. The CCG has subsequently provided a response to the complainant and therefore the Commissioner does not require the public authority to take any steps.

Request and response

4. On 1 November 2016, the complainant wrote to the CCG and requested information in the following terms:

"You are currently consulting on your proposals to replace a large number of community hospital beds with community care provided at home. Can you please provide me with the following information under the FoIA (but also as part of your consultation exercise):

1. *Reports, studies, statistics or any other information showing the clinical effectiveness of a) community care (as proposed in your consultation) and b) hospital care for equivalent conditions.*

2. *Reports, studies, statistics or any other information comparing the clinical effectiveness of community care to equivalent care in hospital.*
 3. *Reports, studies, statistics or any other information pertaining to the satisfaction of those patients treated in hospital who under your proposals would in future be treated through community care.*
 4. *Reports, studies, statistics or any other information comparing the patient satisfaction of community care to equivalent care in hospital*
 5. *Reports, studies, statistics or any other information assessing the risks of patients receiving community care having complications or emergencies relating to their condition during the period of their treatment (by which I mean the calendar period of their treatment rather than the times that they have a nurse giving them treatment in their home).*
 6. *Reports, studies, statistics or any other information comparing, for hospital treatment and community care treatment, the risks and outcomes for of patients who in the future would receive community care having an emergency relating to their condition that requires emergency treatment.*
 7. *Reports, studies, statistics or any other information assessing the impact on patient and visitor travel the hospital for those patients who will still require in-patient hospital treatment under your proposals. Please provide any information you have about patient and visitor travel to hospital for in-patient stays for a) current treatments and b) each of your options for reduced community beds.*
5. The CCG responded on 9 January 2017 and provided some of the requested information. However, the CCG stated that it did not hold any information in relation to part 7 of the request.

Scope of the case

6. The complainant contacted the Commissioner on 3 January 2017 to complain about the way his request for information had been handled, prior to a response being provided.
7. The Commissioner considers the scope of this case to be to determine if the CCG has complied with its obligations under the FOIA, specifically section 10.

8. Following a telephone conversation with the CCG, it was agreed to proceed to a decision notice without an internal review. In addition the CCG acknowledged that it had breached section 10 of the FOIA.

Reasons for decision

Section 10 – time for compliance

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
10. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
11. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that the CCG did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

12. The Commissioner's decision is that the CCG did not deal with the request for information in accordance with the FOIA. In this case the CCG has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days.

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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