

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 1 February 2022

Public Authority: NHS Brighton and Hove Clinical Commissioning Group

Address: Hove Town Hall
Norton Road
Hove
BN3 4AH

Decision (including any steps ordered)

1. The complainant has requested information from NHS Brighton and Hove Clinical Commissioning Group (the CCG) about the risk assessment for Brighton Racecourse vaccination centre because he was concerned about its layout. The CCG provided the information it held but the complainant did not accept that the site assurance statement was the most up-to-date version.
2. The Commissioner's decision is that the CCG, on the balance of probability, has provided all the information falling within the scope of the request that it holds.
3. The Commissioner does not require the CCG to take any further steps.

Request and response

4. On 22 January 2021 the complainant wrote to the CCG and requested information in the following terms:

"...I have some health and safety concerns over the vaccination centre set-up at Brighton Race Course, so could you please provide

me with a copy of the covid-19 risk assessment for Brighton race course, this should not be an issue with Freedom of Information as the Sussex Community NHS Foundation CCG have provided a copy of one of their covid-19 risk assessments. It is a legal requirement for the centre to have a risk assessment, If you cannot then please let me know who is responsible for the centre and I will contact them..."

5. The request was acknowledged by the CCG on 25 January 2021.
6. On 15 February 2021 the CCG disclosed the requested information.
7. On 19 February 2021 the complainant made a review request. His request stated the following:

"My request was received on the 25 January 2021 if this was reviewed on site (see above) this would be the 26 January 2021, but the date of the revised risk assessment and site assurance statement are enclosed (Brighton Racecourse Covid Vaccination Hub Site Assurance 13.1.21.doc) should be after this date not (sic) the site assurance visit is dated 13 January 2021 so I have not been provided with the latest copy?"

8. The complainant has stated that the CCG's review response was received on 8 March 2021 (the review says that the information was accurate as at 2 March 2021). It provided this explanation:

"The reason that the documents do not have the same date is due to HERE [a not for profit social enterprise¹] revising the risk assessment and not the site assurance.

The assurance report is done by the CCG for sites prior to go live (sic) to clarify that the site is suitable and the organisation that runs the site is capable. That assurance statement does not need to change as the site and provider has not changed. The risk assessment of how the provider is using the site is the only document that was revised

As there are no further Site Assurance documents for the Racecourse, the CCG can confirm that the documents provided in response to your FOI were correct. The Risk Assessment was updated on 26/01/2021 as stated in the original FOI response and this is stated on the front page."

¹ [About us - Here \(hereweare.org.uk\)](http://hereweare.org.uk)

Scope of the case

9. The complainant contacted the Commissioner on 7 July 2021 to complain about the way his request for information had been handled. He said that the CCG had only partly fulfilled his request.
10. The Commissioner considers the scope of this case to be whether the CCG holds any further, more up-to-date information falling within scope, than it has already provided.

Reasons for decision

Section 1 – general right of access to information held by public Authorities

11. Section 1(1) of the FOIA states that:

"Any person making a request for information to a public authority is entitled-

(a) To be informed in writing by the public authority whether it holds information of the description specified in the request,

and

(b) if that is the case, to have that information communicated to him."

12. In cases where there is a dispute over the amount of information held, the Commissioner applies the civil test of the balance of probabilities in making his determination. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has been provided). The Commissioner is not expected to prove categorically whether the information is held.
13. On 23 December 2021, the Commissioner asked the CCG a series of questions in an effort to establish whether the complainant was correct in his view that the site assurance statement he had been provided with was not the most up-to-date version.

The CCG's view

14. The CCG explained that the request had been sent to the Director of Programmes, Sussex Health and Care Partnership to source the information that had been requested. The information that had been

located was provided – the updated risk assessment, the site assurance statement and photographs to assist the applicant.

15. After the complainant had stated that he had not been sent the updated site assurance statement, the CCG explained that he was advised during the review that the document is not updated as the site and provider had not changed and that only the risk assessment was revised.
16. The CCG answered the Commissioner's questions about what searches had been conducted, explaining that the specific searches were coordinated across electronic and paper records. The search terms used were "Brighton Racecourse", "risk assessment" and "covid". Discussions took place with the Clinical Director of the service and the person in charge of Estates and Facilities. The information was sourced from the meeting minutes where the documents were signed off, making the sites live.
17. The CCG explained that staff do not use personal computers for their work. Any updated site assurance document would be held in electronic format. It believed that adequate searches had been conducted at the time and that all the information falling within the scope of the request was provided.
18. Responding to the Commissioner's questions as to whether any information falling within scope was destroyed or deleted, the CCG categorically stated that it had not. It also provided a link to its records management policy as follows:

[Records-management-policy-IG08.pdf \(brightonandhoveccg.nhs.uk\)](#).
19. Finally, the CCG repeated its explanation to the complainant that it did not hold an updated site assurance document as this is only carried out once, before a site goes live.

The Commissioner's view

20. The Commissioner has considered the complainant's argument. He has also considered the actions taken by the CCG to check whether more up-to-date information (at the time of the request) is held. His view is that the CCG carried out relevant and adequate checks to establish what information it held in order to provide it to the complainant.
21. On the other hand the complainant clearly believes that he has not been provided with the most up-to-date site assurance document. His view is that the site assurance document needed to be updated as the site had changed. However, it is beyond the Commissioner's remit to consider whether the site assurance should have been updated or not. He can only consider whether an updated version is held or not by the CCG.

22. The Commissioner has decided that the complainant has been provided with all the information falling within the scope of his request. The reasons offered by the CCG to explain why more up-to-date information is not held are persuasive. This is the same explanation that was provided to the complainant at review.
23. On the balance of probability, the Commissioner finds that no further information is held than has already been provided to the complainant.

Right of appeal

24. 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@justice.gov.uk

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

25. 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.
26. 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

Janine Gregory
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF