

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 August 2021

Public Authority: North Cumbria Integrated Care
NHS Foundation Trust

Address: Maglona House
Kingstown Broadway
Carlisle
CA3 0HA

Decision (including any steps ordered)

1. The complainant has submitted 10 requests to North Cumbria Integrated Care NHS Foundation Trust ('the Trust'), about a variety of matters. The Trust addressed five of the requests and refused to comply with the remaining five requests as it considered the cost of doing so would exceed the appropriate limit under section 12(1) of the FOIA. The complainant disputes the Trust's reliance on section 12(1) to refuse to comply with his requests.
2. The Commissioner's decision is as follows:
 - The Trust is entitled to rely on section 12(4) of the FOIA to aggregate the complainant's requests and to refuse to comply with them under section 12(1).
 - The Trust provided adequate advice and assistance and there was no breach of section 16(1) in the Trust's handling of the request.
3. The Commissioner does not require the Trust to take any remedial steps.

Request and response

4. On 7 September 2020 the complainant wrote to the Trust and requested information in the following terms:

"1) How many consultants listed on your website, are associate medical directors of Cumbria Northumberland Tyne and Wear NHS Foundation Trust in the North Cumbria locality care group?

2) If a Doctor on a Psychiatric Intensive Care Unit was not the Responsible Consultant or stated as the other consultant, would this Doctor be able to illegally invent a medical diagnosis after the patients release 6 week later after an original discharge summary was deleted and replaced, if so, has there been any allegations of this happening?

3) What qualifications did [redacted] of the Cumbria Partnership NHS Foundation Trust IT Security department have, to carry out a Consultation episode and also what qualifications does this individual have to diagnose medical conditions?

4) How many "current alerts" are on medical records in Cumbria, with any NHS organisation, that originated from Cumbria Partnership NHS Foundation Trust, that has a member of the public declared a mentally disordered offender, who is also a registered child workforce employee of a National Governing Body

5) How many times has your trust refused child safeguarding complaints from a member of the public, also how long did your trust refuse to investigate?

6) Is there any examples of North Cumbria integrated Care NHS Foundation Trust not carrying out a Subject Access Request and refusing to send a member of the public there records?

7) Is there any complaints regarding illegal MARE meetings that your trust has refused to give a Respinse to, which contained issues regarding Child Safeguarding, breach of human rights, breaching County wide policy and declaring someone aproven unfounded danger?

8) How many allegations are your trust aware of, escalated to the Information Commissioners Office or General Regulatory Chamber first tier tribunal of your trust lying on a Freedom of information act request response?

9) In your system including all organisations that you control the IT Security department, is there any allegations relating to Harold Shipman falsification fabrication altering deleting and tampering with medical records, and how many different organisations in your system are these allegations outstanding, either in the form of intended legal action or complaints made to the Information Commissioners Office?

10) In your system including all organisations that you control the IT Security department, Has it been confirmed by the Information Commissioners Office that any organisation was in breach of the data protection act for failing to ensure the accuracy of information, if so, what action was taken and who did this information originate from and who authorised its release?"

5. The Trust responded on 5 October 2020. It directed the complainant to published information relevant to request 1, advised it did not hold the information requested in request 2 and relied on section 40(5) to neither confirm nor deny it held the information requested in request 3 as to do so would release a third person's personal data. The Trust addressed requests 8 and 10. It relied on section 12(1) to refuse to comply with requests 4, 5, 6, 7 and 9.
6. Following an internal review the Trust wrote to the complainant on 2 November 2020. It explained that under the FOIA it was entitled to aggregate the complainant's 10 requests in order to assess whether complying with them would exceed the appropriate cost limit. The Trust discussed why complying with request 4 alone would exceed the cost limit and maintained its reliance on section 12. It subsequently wrote to the complainant again, clarifying the cost and time calculations it had given to him.

Scope of the case

7. The complainant contacted the Commissioner on 2 November 2020 to complain about the way his requests for information had been handled.
8. The Commissioner's investigation has focussed on the Trust's reliance on section 12 of the FOIA to aggregate the requests and to refuse to comply with them because of the cost of doing so. She has also considered the Trust's duty to offer the complainant advice and assistance, under section 16(1) of the FOIA, in respect of those requests.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

9. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to him or her if it is held and is not exempt information.
10. Section 12(1) of the FOIA says that a public authority is not obliged to comply with section 1(1) if the authority estimates that the cost of doing so would exceed the appropriate limit.
11. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the Trust. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
 - determine whether it holds the information
 - locate the information, or a document which may contain the information
 - retrieve the information, or a document which may contain the information, and
 - extract the information from a document containing it.
12. When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”) can be satisfied.
13. The effect of the provisions under section 12(4) of the FOIA and regulation 5(2) of the Fees Regulations means that a public authority may aggregate the cost of complying with two or more requests if the following three criteria are met:
 - the requests are made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign
 - two or more requests relate, to any extent, to the same or similar information; and

- the requests were received by the public authority within any period of 60 consecutive working days.
14. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the applicant refine the request so that it can be dealt with under the appropriate limit, in line with section 16(1) of the FOIA.
 15. In its submission to the Commissioner, the Trust has confirmed its view that it was entitled to aggregate the complainant's requests because they met the above criteria. The Commissioner agrees. She considers that the ten requests, while distinct, all broadly concern how the Trust runs its operations and she also accepts the Trust's point that the complainant has linked the requests himself by submitting them together. As such, the requests were all made by one person and the Trust received them within 60 consecutive working days.
 16. As it had in its correspondence with the complainant, in its submission the Trust goes on to discuss request 4 and the cost/time that would be involved in complying with that request alone. The Trust has interpreted request 4 as being for the number of current alerts on medical records that originated from a predecessor NHS Trust, for an individual with particular characteristics. It has explained that its systems are not set up in a way that lends itself to easily complying with this request. The information is not held centrally, and a number of electronic systems are involved that do not all interface with each other. There are also different types of 'alert' (clinical, administrative, other) and it would be necessary to manually trace each patient with an alert registered to them. In addition, the particular characteristics referred to in the request are not ones indexed on the Trust's systems. And finally, as the request is not for a particular patient (for example) but for 'how many' alerts on medical records generally, it would be necessary to search *all* records.
 17. The Trust has told the Commissioner that there are 216,000 records covered by request 4 and has estimated that it would take 30 minutes to manually review each record. At £25 per hour, this work would take 108,000 hours and cost £2.7m.
 18. The Trust has also explained to the Commissioner why it would exceed the cost limit under section 12 to comply with requests 5, 6, 7 and 9. It has detailed the work involved and the associated likely costs and time it would take. The Trust considers that complying with these four requests would take an additional 2,100 hours and cost an additional £52,500.

Conclusion

19. With regard to request 4, the Commissioner accepts the Trust's explanation and considers its 30 minute estimate is credible in the circumstances. Given the volume of records caught by the request and that each would need to be manually reviewed, the Commissioner is satisfied that complying with request 4 alone would far exceed the cost limit provided under section 12. She also considers that the Trust's reasoning about requests 5, 6, 7 and 9 is credible.
20. The Trust addressed five of the complainant's requests. However, since it would exceed the cost limit to comply with just one of the 10 requests, the Commissioner has decided that the Trust was entitled to aggregate the complainant's requests and to refuse to comply with any of them under section 12(1) of the FOIA.

Section 16 – advice and assistance

21. Section 16(1) of the FOIA places a duty on a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
22. In its submission, the Trust has noted that in its original response to the request it had addressed each request separately rather than aggregating them as it was entitled to do. It had also directed the complainant to the Commissioner's published guidance for applicants on how to submit a request, to enable him to make a refined request.
23. In addition to further general guidance, in its internal review response, the Trust noted that it had explained in detail the work involved in complying with request 4, to help the complainant understand how its systems and 'alerts' are set up.

Conclusion

24. Given the number of requests the complainant submitted, their wide-ranging nature and the volume of information potentially caught by a number of the requests, in the Commissioner's view it would be difficult to narrow them down in any meaningful way and the complainant still be provided with the breadth of information about the Trust that they are seeking. As such, the Commissioner is satisfied that the Trust offered the complainant adequate advice and assistance and that there was no breach of section 16(1) of the FOIA.

Right of appeal

25. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

26. 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.
27. 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
Cressida Woodall
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