

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 December 2014

Public Authority: Camden & Islington NHS Foundation Trust

Address: St Pancras Hospital
4 St Pancras Way
London NW1 0PE

Decision (including any steps ordered)

1. The complainant has requested information about numbers of patients receiving anti-psychotic and anti-epileptic drugs. Camden & Islington NHS Foundation Trust ('the Trust') refused to comply with the request under section 12 of the FOIA (cost exceeds appropriate limit).
2. The Commissioner's decision is that the Trust:
 - breached section 10 of the FOIA because it did not provide a response to the request within 20 working days;
 - is correct to rely on section 12 as it will take longer than 18 hours to comply with the request; and
 - has met its obligation under section 16 to offer advice and assistance.
3. He does not require the Trust to take any further steps.

Request and response

4. On 24 April 2014, the complainant wrote to the Trust and requested information in the following terms:

"Under provisions in the Freedom of Information Act 2000, please supply me with the following figures from 1 January 2013 to 31 March 2014 on a periodic basis:

- the number of unique patients/service users under the care (inpatient or outpatient) receiving more than one anti-psychotic

- the number of unique patients/service users under the care (inpatient or outpatient) receiving anti-psychotics and anti-epileptics

I would like the figures to show the drug name and dosage."

5. The Trust responded on 3 June. It said that it was not obliged to comply with the request because to do so would exceed the appropriate limit, under section 12 of the FOIA.
6. Following an internal review the Trust wrote to the complainant on 16 July. It maintained its reliance on section 12 and advised the complainant that they could try approaching Clinical Commissioning Groups and/or GP practices for the information they are seeking.
7. Following intervention from the Commissioner and with a view to perhaps resolving the complaint informally, the Trust also wrote to the complainant on 28 November. It explained in more detail why complying with their request would exceed the appropriate cost and time limit.

Scope of the case

8. The complainant contacted the Commissioner on 12 September to complain about the way their request for information had been handled.
9. The Commissioner has focussed his investigation on the time the Trust took to respond to the request, its application of section 12 of the FOIA and whether it met its obligation under section 16 to offer advice and assistance.

Reasons for decision

10. **Section 10** of the FOIA says that when a public authority receives a request for information it must provide a response within 20 working days following the date of receipt.
11. The complainant submitted their request on 24 April. A response was due by 23 May and but they did not receive a response from the Trust until 3 June. The Commissioner notes that the Trust apologised for the delay when it provided the complainant with its internal review.
12. **Section 12** of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or

- confirm or deny whether the requested information is held.
13. The estimate must be reasonable in the circumstances of the case.
 14. 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:
 - (a) determine whether it holds the information,
 - (b) locate the information, or a document which may contain the information,
 - (c) retrieve the information, or a document which may contain the information, and
 - (d) extract the information from a document containing it.
 15. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit – in line with section 16.
 16. To determine whether the Trust applied section 12 and section 16 of the FOIA correctly, the Commissioner has considered the Trust's correspondence to the complainant, and the submission it provided to him as part of his investigation.
 17. In its correspondence of 3 June, the Trust told the complainant that, to provide a response to their request, it would have to look at all the medicine charts for inpatients, and patient records for outpatients under its care during the period covered by their request, and that this would exceed the statutory cost limit of £450.
 18. At internal review, the Trust said that it does not hold the information that the complainant has requested. It repeated that it would have to collate the information by looking at all the medicine charts for its current inpatients, together with patient records for outpatients under its care during the period the complainant had requested, and that this would exceed the £450 cost limit.
 19. The complainant is not convinced that, since the Trust produces regular reports to the Prescribing Observatory for Mental Health, it does not hold electronic data about its "prescribing habits".

20. In its submission to the Commissioner the Trust provided more detail about why complying with the request would exceed the 18 hour/£450 limit. It explained that there are five clinical divisions within the Trust and that each division holds information about its patients in different ways.
21. The Trust found that two of the divisions do not hold the requested information. Its Substance Misuse and Forensic Services Division does not have any clients to which it prescribes more than one anti-psychotic medication. As the Trust has explained to the complainant in a previous FOI request, this Division confirmed most anti-psychotic and almost all anti-epileptic medication is prescribed by GPs, rather than the Trust. The Trust says that some information is captured on its Reporting Information Online (RIO) database, which the Trust uses to record information, but that the information is not held in a reliable way and moreover, the requested information is not held.
22. The Recovery and Rehabilitation Division also confirmed that it does not hold the requested information as a data report or audit document – it is held only on individual patient medical records.
23. The Trust confirmed that the three Divisions that may hold information falling within the scope of the request have all undertaken sampling exercises. Based on a recent audit, the Trust's Community Mental Health Division estimates that approximately 75-100 of its patients may be prescribed anti-psychotic medication and approximately ten of its patients may be receiving anti-psychotic and anti-epileptic medications. However, to provide the information that has been requested, the Trust would have to audit up to 100 electronic case records of those receiving anti-psychotics. It estimates each case would take 15 minutes to review, which would mean approximately 25 hours work.
24. The Services for Ageing and Mental Health Division has 2,500 patients under its care. As at paragraph 24, prescribing in these cases is generally done by the patient's GP. While patient case notes are held in electronic format, drug charts are held on paper. This Division has therefore estimated that to review each case note would take approximately 30 minutes so that reviewing 2,500 would take 1,250 hours.
25. The Trust's Acute Division has confirmed it holds the requested information on paper medication charts. The Division has approximately 100 admissions per month, therefore 1,200 per year. To identify patients fitting the criteria in the request would necessitate reviewing all the medicine charts (five minutes per chart) with relevant information being entered on a database (five minutes per entry). The Division

estimates this could mean over 250 hours work, given the number of admissions per year.

26. The Trust also explained to the Commissioner that it currently has 26 anti-psychotic and anti-epileptic drugs on its formulary. To conduct an electronic search of the RIO database, which may hold relevant information from the Substance Misuse and Forensic Services and Services for Ageing and Mental Health Divisions, a clinician would need to enter the name of each of the 26 drugs separately against each patient name in order to calculate the number of patients and service users in these Divisions that are receiving anti-psychotic and anti-epileptic drugs. The Trust argues not only would this process take longer than 18 hours, but it would mean creating new information solely for the purpose of responding to the complainant's request and that it therefore does not hold the information that has been requested.
27. Having considered the Trust's detailed explanation for its reliance on section 12, the Commissioner is satisfied that the Trust's estimates are credible, and reasonable in the circumstances of the case. From the evidence provided, responding to the complainant's request would take well in excess of 18 hours and therefore the Trust is not obliged to comply with it.
28. **Section 16** of the FOIA places a duty on a public authority to provide advice and assistance to someone making an information request, including helping an applicant refine a request so that it can be answered within the appropriate costs limit.
29. Having informed the complainant that it was not obliged to comply with the request, the Trust suggested to the complainant that they might try approaching Clinical Commissioning Groups and/or GP practices for the information they are seeking. In addition, in its correspondence of 28 November, the Trust explained why, even if it narrowed the scope of the request from a 14 month period to a one month period, complying with this would also exceed the appropriate limit. This is because it would still need to review approximately 4000 medicine charts and patient notes.
30. The Commissioner has considered the steps the Trust took to help the complainant with their request. He is satisfied that the advice and assistance it offered was adequate and that the Trust has met its obligation under section 16.

Right of appeal

31. 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

32. 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.
33. 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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