

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 03 September 2012

**Public Authority:** Cumbria Primary Care Trust

**Address:** NHS Cumbria  
Lonsdale Unit  
Penrith Hospital  
Penrith  
CA11 8HX

### Decision (including any steps ordered)

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The complainant submitted a request to Cumbria Primary Care Trust ("the Trust") under the Freedom of Information Act 2000 ("FOIA") for information pertaining to a contract between the Trust and University Hospitals of Morecambe Bay NHS Foundation Trust. The Commissioner has investigated the complaint and finds that the Trust failed to provide the complainant with the information he requested or to issue a valid refusal notice within the statutory timeframe of 20 working days as set out in section 10(1) of FOIA. The Trust was in breach of its procedural obligations under FOIA. However, since the requested information has now been provided to the complainant, the Commissioner requires no steps to be taken.

### Request and response

1. On 22 February 2012, the complainant wrote to the Trust and requested the following information:

"This is a formal Freedom of Information request:

In view of the fact that University Hospitals of Morecambe Bay NHSFT has now opted out of the SINAP Acute Stroke Care National Audit, having previously performed very badly, the clauses of the contract between UHMB and its major commissioner regarding the participation in these important national audits have become the subject of legitimate public interest. The Royal College of Physicians administers the audit under contract from HQIP, and states that : "*SINAP is one of the audits in the National Clinical Audit and Patient Outcomes Programme (NCAPOP)*". [Section 12 of the 2011/12 Standard Terms and](#)

[Conditions for Acute Hospital Services \(PDF 726.9 Kb\)](#) states that "The Provider shall: ...12.1.2 participate in the national clinical audits within the National Clinical Audit and Patient Outcomes Programme (NCAPOP) relevant to the Services". This contract was, of course, signed when UHMB had been a Foundation Trust for several months, and the public has an interest in knowing whether CPCT permitted, in the terms of this contract, UHMB to opt out of such national audits. Therefore, the request is for a copy of those clauses within the 2011/12 contract for Acute Hospital Services between CPCT and UHMBNHSFT which are the equivalent of clause 12 in the above mentioned standard contract, and a copy of the clauses within the proposed equivalent 2012/13 contract."

2. The complainant complained to the Commissioner on 21 March 2012 as the Trust had not responded to his request for information. The Commissioner contacted the Trust, who responded on 14 May 2012 stating that it had responded to the complainant's request on 4 April 2012 and providing the Commissioner with a copy of that response. The complainant was not satisfied with this as the information had not been provided to him within 20 working days as per section 10(1) of FOIA.

### **Scope of the case**

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3. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
4. The Commissioner has considered the Trust's handling of the complainant's request.

### **Reasons for decision**

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#### **Section 10(1): Time for compliance**

5. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.

6. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
  
7. The Commissioner notes that the complainant's request for information was made on 22 February 2012, however he did not receive the information, or a valid refusal notice, until 4 April 2012. From the information provided to the Commissioner in this case it is evident that the Trust did not respond to the complainant under FOIA within the statutory time frame and therefore it breached section 10(1) of FOIA.

## Right of appeal

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8. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

9. 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.
10. 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 .....**

**Rachael Cragg  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**