

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 June 2016

Public Authority: East of England Ambulance Service
Address: Whiting Way
Melbourn
Royston
SG8 6NA

Decision (including any steps ordered)

1. The complainant has requested information relating to stroke times. East of England Ambulance Service (EEAS) cited section 22 (intended for future publication) of FOIA to refuse the request.
2. The Commissioner's decision is that EEAS has correctly applied section 22(1) of the FOIA in its response to the request.
3. As the information has now been made public the Commissioner does not require EEAS to take any steps as a result of this decision notice.

Request and response

4. On 20 January 2017 the complainant requested the following information:
'Please can you provide the performance, number of successes and number of incidents by CCG for the months of October 2016, November 2016 and December 2016, as well as the overall performance for the Trust (per month) for:
Stroke ACQI Time to HASU within 60 minutes
STEMI ACQI Time to PPCI treatment within 150 minutes'
5. On 15 February 2017 EEAS responded and withheld the information citing section 22 (intending to publish).

6. The complainant requested an internal review on 15 February 2017. EEAS sent the outcome of its internal review upholding its position on 23 February 2017.

Scope of the case

7. The complainant contacted the Commissioner on 28 February 2017 to complain about the way her request for information had been handled.
8. The Commissioner has focussed her investigation on determining whether EEAS correctly applied section 22 of the FOIA in its response to the request for information.

Reasons for decision

9. Section 22 Information intended for future publication

(1) Information is exempt information if -

(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

10. In order to determine whether section 22 is engaged the Commissioner therefore considered the following questions:

- When the complainant submitted the request, did EEAS intend to publish the information at some date in the future?
- If so, had EEAS determined this date when the request was submitted?
- In all the circumstances of the case, was it 'reasonable' that EEAS should withhold the information from disclosure until some future date (whether determined or not)?

Was the information held with a view to its publication at a future date?

11. Section 22 applies only when the requested information is held by a public authority with a view to publication, by that public authority or another body, at the time the request was received.
12. The date of publication does not need to be definite for the exemption to apply. There will be some information that is compiled as part of a scheduled procedure which includes a planned publication date. The date of publication of other material may be less certain, for example:
 - a deadline may be provided, but publication could be at any time before then;
 - publication will take place once an information gathering exercise has been completed; or
 - by reference to other related events.
13. EEAS has stated that it intended to publish this information once the Clinical Commissioning Groups (CCGs) had seen it at their Quality Meeting. The next meeting was held on 27th April 2017, however some of the CCGs were not at that meeting and an action was set to consult by email. EEAS stated that it wanted to ensure that the CCGs had sight of the data before publication on the (public) website. The CCGs have since viewed the information and EEAS has published the data on the website.
14. EEAS also advised that the information was provided to the complainant through its internal intranet pages on 27th February 2017 (since updated). The interim measure was intended to show that EEAS did intend to publish although at the time of the request there was no determined date.
15. The Commissioner has considered the above and accepts that at the time of the request, there was a settled intention to publish the report, even though that date was not specified and would take place after a number of steps.

Was it 'reasonable' to withhold the information?

16. However, for this exemption to be relied on section 22(1)(c) requires that the application is 'reasonable in all the circumstances' of the request.
17. EEAS stated that it believed that the decision to withhold the information until published on the website was fair when taking into consideration

both the complainant's and EEAS' aims. EEAS had no reason to believe the information was time-sensitive and planned to publish the data once the CCGs had sight of it.

18. The complainant accepted that EEAS intended to publish the information but was concerned that this would not be within a reasonable timeframe.
19. The Commissioner considers that it was reasonable to withhold the information from the public website until the CCGs had seen the data. Section 22 is subject to the public interest test.

What public interest arguments in favour of disclosing the information were taken into account?

20. The Commissioner is aware from the authority's submissions that it acknowledges the importance of public authorities operating in an open and transparent manner, and that this is a factor that has been considered as part of its public interest reasoning.
21. The complainant has also advised that the disclosure of the information is necessary 'given the public and stakeholder concerns about the heavy reliance on RRVs, which has impacted on Stroke 60 data'.

What public interest arguments in favour of maintaining the exemption were taken into account?

22. Although EEAS did not have a set publication date, the intention was to publish this information after the CCGs had viewed the data at the Quality Meeting. This was expected to happen within a few months.

The balance of the public interest arguments

23. The Commissioner has considered the arguments provided by both the complainant and EEAS in order to assess whether the public interest is weighed more heavily for or against disclosure. The Commissioner considers that, on balance, it remains reasonable to withhold the information in the circumstances so that the CCGs can view the data before publication.
24. On the basis of the above factors, the Commissioner has concluded that at the time of the request the authority was correct to withhold the information under the exemption provided by section 22.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF