

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 November 2017

Public Authority: Cambridgeshire County Council

Address: Shire Hall
Castle Hill
Cambridge
Cambridgeshire
CB3 0AP

Decision (including any steps ordered)

1. The complainant has requested specific policy documents from Cambridgeshire County Council ("the Council"). The Council responded that the requested information was not held, which the complainant contests.
2. The Commissioner's decision is that the Council does not hold the requested information.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 12 January 2017, the complainant wrote to the Council and requested information in the following terms:

Copy of current and all previous County Council policies on S117 MHA 1983 Aftercare services.

Copy of current and all previous County Council policies on CPA (Care Programme Approach).
5. The Council responded on 10 February 2017. It stated that no recorded information was held.

6. Following an internal review the Council wrote to the complainant on 24 April 2017. It stated that its earlier response was correct.

Scope of the case

7. The complainant contacted the Commissioner on 6 March 2017 to complain about the way his request for information had been handled. The complainant specifically contested that the Council held recorded information.
8. The Commissioner considers the scope of the case to be the determination of whether the Council has complied with section 1(1) of the FOIA.

Reasons for decision

Section 1(1) – General right of access to information

9. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
10. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
11. In the circumstances of this case the Commissioner will determine whether, on the balance of probabilities, the Council holds recorded information that falls within the parameters of the request.

The complainant's position

12. The complainant considers that the Council holds specific policies in respect of "*S117 MHA 1983 Aftercare services*" and "*CPA (Care Programme Approach)*".
13. The complainant has provided the Commissioner with a copy of a policy document that he has previously obtained. This policy document is titled "*Cambridgeshire County Council: NHS Cambridgeshire: Mental Health Act 1983 – Section 117: After-Care Policy*".

14. The complainant believes that this document indicates that the Council still holds the specific policies that have been requested.

The Council's position

15. The Council has informed the Commissioner that searches for the requested information have been undertaken by searching the Council's intranet using the keywords "S117", "Aftercare", "CPA", "Care Programme Approach". These searches have returned no relevant documents
16. The Council has further informed the Commissioner that it has consulted two senior managers considered to be most likely to be aware of any relevant documents; namely the Service Director for Adult Social Care, and the Head of Service for Learning Disability Partnership. Both senior managers have confirmed that they are not aware of any relevant policy documents.
17. The Council has elaborated that it does not reasonably expect to hold the requested information, because the Council does not have any current responsibility for delivering "S117 MHA 1983 Aftercare services" or "CPA (Care Programme Approach)". Responsibility for delivering these services is held by Cambridgeshire and Peterborough NHS Foundation Trust ("the CPFT"). The Council therefore has no reason to hold any relevant policy documents. The Council has further confirmed that if policy documents about these services were held in the past, no record of these have been identified.
18. The Council has further elaborated that it is aware that the complainant has obtained a policy document that originally derived from the Council. This policy document is known to have been an annex to a past 'Section 75' agreement between the Council and the CPFT, and details the expectation that council officers, when seconded to the CPFT, would follow the CPFT policy on S117. This policy document is not current and the Council has not identified any remaining copy of it. The past Section 75 agreement (that it was annexed to) was replaced in 2014 with a new Section 75 agreement (that does not contain any such replacement annex).

The Commissioner's conclusion

19. The Commissioner has considered the Council's submissions on this matter. This has included consideration of the searches for recorded information that the Council has undertaken, and the stated absence of any known business or statutory reasons for which the information should be held.

20. The FOIA does not impose an obligation on public authorities to retain previously recorded information if it is no longer required. Whilst the Commissioner has considered the historic policy document that the complainant has provided, there is no available evidence that this document, or a newer version of it, is held by the Council.
21. The Commissioner has therefore concluded, on the balance of probabilities, that no relevant recorded information is held by the Council.

Right of appeal

22. 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

23. 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.
24. 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

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