

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 January 2024

Public Authority: Kent Community Health NHS Foundation Trust
Address: The Oast, Unit D
Hermitage Lane, Barming
Maidston
Kent ME16 9NT

Decision (including any steps ordered)

1. The Commissioner's decision is that on the balance of probabilities, Kent Community Health NHS Foundation Trust ('the Trust') doesn't hold further recorded information about adult autism assessments and has complied with section 1(1) and section 10(1) of FOIA.
2. It's not necessary for the Trust to take any corrective steps.

Request and response

3. The complainant made the following information request to the Trust on 19 June and 26 June 2023:

"[1] As you have multiple providers for adult autism assessments, please could you provide the documentation that defines the process/criteria for determining which of these providers is chosen when you receive a GP referral request [2] and the process/criteria for determining whether the assessment should be standard, enhanced or referred to a specialist (as NHS England state this should be fully defined, e.g. "what the service is commissioned to provide, for whom,

in what circumstances and with any additional requirements noted” and it should be “available for people and family/carers”).

Please could you provide me with the procedural document(s) for adult autism assessment referrals, including: the criteria for choosing whether an assessment is standard, enhanced or referred to a specialist; the criteria for choosing the service provider used; [3] the steps involved and who is responsible for decision-making; [4] any provisions for a patients' right to choose

Also, [5] what is the process for making a complaint if someone believes they have been sent to the wrong provider or that the selection of a provider has been uncompetitive?”

4. The Trust responded on 3 July 2023. It provided information in response to the parts of the request.
5. The complainant requested an internal review on 3 July 2023 and the Trust provided one on 24 July 2023, addressing queries and clarifying points that the complainant had raised. The Trust provided further clarification on 14 August 2023 and provided a second internal review on 5 December 2023. It attached additional supporting information, but its final position was that it holds no further information within scope of the request.

Reasons for decision

6. The complainant disputes that the Trust doesn't hold any further information that's relevant to their request.
7. This reasoning therefore covers whether, on the balance of probabilities, the Trust holds further recorded information within scope of the complainant's request of 19 and 26 June 2023 and complied with section 1(1) and 10(1) of FOIA.
8. Under section 1(1) of FOIA a public authority is obliged to (a) confirm to an applicant whether or not it holds the information they've requested and (b) communicate the information if it's held and isn't exempt information.
9. Under section 10(1) a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
10. In a submission to the Commissioner, the Trust noted that in its response of 3 July 2023 it had explained to the complainant the

process/criteria for determining which of the providers is chosen when it receives a GP referral request but hadn't provided the documentation that illustrated this. The Trust had, however, outlined the process from the point of pre-assessment, supporting documents, triage against the criteria detailed within the Diagnostic and Statistical Manual of Mental Disorders and on to assigning to the appropriate provider.

11. The Trust says that its response further confirmed that,

"if a patient is seeking referral via right to choose, then this would need to be requested via their referrer for direct funding approval and submission of a referral, to the chosen providers right to choose pathway. Referrals made via the standard NHS pathway, i.e those sent to the Kent and Medway Adult Autism and ADHD Service, cannot be transferred to a right to choose pathway following receipt and acceptance."

12. With regards to the process for making a complaint the Trust had confirmed that complaints should be directed to the providing organisation.

13. The Trust goes on to note that the complainant had contacted it twice on 3 July 2023 to request an internal review. Each email raised a number of points that hadn't been detailed in the original request. Notably the last sentence confirmed,

"To avoid further delay, please provide the documents as requested or ensure your description of the process is as fulsome as possible."

14. In its internal review of 24 July 2023 the Trust says that it acknowledged that it hadn't provided all of the requested information and went on to provide significantly more detail. Specifically, it provided the documentation that [sets out] the process for determining which provider is chosen. The Trust also confirmed that only one level of assessment is available by the Trust's Kent and Medway Adult Autism and ADHD Service and therefore there's no distinction as to whether this is standard or enhanced. Further information about the Trust's complaints service was provided in case the complainant hadn't been seeking details about a provider's complaints service.

15. The Trust notes that on 25 July 2023 the complainant contacted it again, seeking further clarification on the information it had provided, which the Trust responded to on 14 August 2023. The Trust says that this response provided a level of information far beyond the original remit of the request and also clarified some points that hadn't been made explicit previously. With regards to, "the process/criteria for determining

whether the assessment should be standard, enhanced or referred to a specialist" the Trust clarified that it doesn't hold this information.

16. Following multiple other requests from the complainant, the Trust says it wrote to them on 4 October 2023 and asked them to confirm any outstanding concerns they had and how the Trust could support them in providing them with the relevant information to respond to their requests.
17. Correspondence the complainant sent to the Trust on 5 October 2023 made no reference to the above response reference FOI/2023.099. But a subsequent letter of 6 October 2023 stated,

"Further to yesterday's email, I would also like to forewarn you that my complaint to the ICO regarding FOI 099 'clarifications' includes where I asked: "are formal diagnostic tools such as ADOS meant to be used or not? Both Psicon's and Sinclair-Strong's websites claim to use ADOS, but in practice Psicon doesn't. So what is the service meant to be?" to which the KCHFT merely responded that there is no single tool that on its own can diagnose autism."
18. The Trust has noted that these points did not form part of the original request but has provided them in its submission, for context.
19. The Trust says it provided a comprehensive review and response to all of the complainant's requests (that had been received to date) on 5 December 2023. This included further documentation on the additional questions the complainant had raised. The Trust also confirmed at this point,

"I believe this request has now been answered to the fullest extent, based on the information we hold. We are unable to answer any further queries relating to those points raised in the above request."
20. With regard to part [1] of the complainant's original request of 19 and 26 June 2023 about determining how a provider is chosen following a GP referral, the Trust has confirmed in its submission that it has provided the complainant with all the documentation about this process, and further explanation as necessary, and holds no further relevant recorded information.
21. With regard to part [2] about criteria for assessments, the Trust says it's confirmed on multiple occasions that providers only provide one level of assessment in relation to this service and therefore it doesn't hold this information.

22. Regarding part [5] of the request about complaint processes, the Trust says it has provided this information in full and holds no further relevant information.
23. The Commissioner has noted that the complainant had advised the Trust that it could either provide documents or provide a full description. Regarding parts [3] and [4] of the request, the Commissioner has reviewed the Trust's response(s) to these parts of the request, and he's satisfied that the Trust has provided the full description the complainant requested. On the balance of probabilities, the Commissioner accepts that the Trust holds no further recorded information relevant to these parts.
24. The complainant's additional queries and requests for clarification, and other requests submitted in the same period, have made this request more complex for the Trust to deal with. However, it has now considered the complainant's request a number of times and has confirmed that it holds no other relevant information. The Commissioner's view is that the Trust would be better placed than the complainant to know whether that's the case and he accepts the reasoning the Trust has given. The Commissioner is satisfied that, on the balance of probabilities, the Trust doesn't hold any other recorded information falling within scope of the complainant's request and has complied with section 1(1) of FOIA.
25. The complainant submitted the later part of their request on 26 June 2023. The Trust responded initially on 3 July 2023 and on 24 July 2023 communicated further recorded information within scope of the request. Through these responses the Trust advised what information it did or didn't hold and communicated the relevant information it did hold. As such, the responses complied with section 10(1) of FOIA. Later responses from the Trust to the complainant simply addressed their follow up queries and requests for clarification.

Right of appeal

26. 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

27. 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.
28. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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