

FREEDOM OF INFORMATION (“FOI”) – INTERNAL REVIEW REPORT & FINDINGS

Our Ref: 19-20286 GIDS: Internal Review Legal Costs re Book Publication
(Original FOI Enquiry 19-20249 refers) - Jamie Lowry

INTRODUCTION

1. This note sets out an internal FOI review carried out in accordance with Appendix 5 of the FOI Procedure of the Tavistock and Portman NHS Foundation Trust (“Trust”).

TIMELINE

2. On 15 October 2019 Jamie Lowry (“JL”) sent a FOI request.
3. The request was to “confirm how much money the Trust [had] paid DAC Beachcroft (“DAC”), or any other law firm, in relation to [the book] *Inventing Transgender Children and Young People.*” (The “Book”.)
4. The request was passed onto Craig de Sousa (“CdS”), Director of HR and Corporate Governance on the morning of 16 October 2019.
5. CdS was on annual leave, returning on 21 October.
6. Having reviewed the information available to him (notably invoices and the supporting back-up provided by DAC) and ascertained that the Trust did not hold the information requested, on 6 November 2019, CdS asked DAC if they were able to provide the required information.
7. DAC were not able to do so, as the work related to the Book was part of a wider range of work DAC were carrying out on behalf of the Trust relating to “GIDS” – the children’s Gender Identity Development Service.
8. As at the date of this report, DAC have still been unable to provide the Trust with the information sought.
9. On the morning of 12 November 2019 (20 working days after the submission of the request), the Trust responded stating that “The Trust does not hold specific data relating to this matter, it does receive invoicing data from its legal advisers but the categorisation of this varies and in many cases is aggregated in the firm’s reporting.”
10. On the evening of 12 November 2019, JL wrote to the Trust requesting an internal review. The request highlighted several matters, notably:
 - a. The time it took to respond
 - b. The failure to state which exemption was applied (and whether any tests were applied)
 - c. Whether the Trust had attempted to find a solution which would have addressed the original request.
11. In the evening of 12 November 2019, the request was passed to me, in my role as Senior Risk Information Officer. This request was picked up by me on the 13 November 2019.
12. As part of my internal review I have:
 - a. Interviewed CdS and the Freedom for Information Officer at the Trust
 - b. Reviewed e-mails between the FOI Officer and JL
 - c. Reviewed e-mails between the CdS and DAC
 - d. Reviewed the invoices and supporting documentation provided by DAC.

FINDINGS

Time to Respond

13. The response to JL was made (as JL admits) within the 20 working days limit. JL states to be “shocked” that it took the Trust 20 working days to respond.
14. Part of the time taken to respond was due to CdS being on annual leave, however, it also has to be appreciated that the Trust is small and has limited resources to deal with unusual and / or complex requests. In the current environment, this appears unlikely to change anytime soon.
15. The delay in responding also reflected, in part, the efforts by CdS to obtain the requested information from DAC. This action exceeds the statutory requirement, as there is no requirement under the FOIA 2000 to obtain and / or create new information, as it is about provision of information held. This action did not (and has not yet) proven fruitful. Accordingly, and in order to meet the statutory deadline, the response was issued on 12 November, advising that the Trust did not hold the data in question.

Application Of Exemption

16. JL asks what exemption / tests were applied by the Trust?
17. In fact, none were applied, because none were relevant. The Trust simply did not hold the information requested – and hence could not provide it nor apply any exemptions or tests.

Whether The Trust Sought A Solution

18. Despite not needing the information (and thus having never requested it in the first place), the Trust did ask DAC for the information requested by JL. This will be clearly at a cost to the Trust. However, as at the date of this report, and despite being asked again, DAC have yet to provide the information, as it is not readily available.

CONCLUSIONS

19. Under the circumstances outlined above, I find the Trust acted in good faith and answered the request as best as it was able, within the required time limits.

Terry Noys

Senior Information Risk Officer

26 November 2019