

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 December 2023

Public Authority: Barking, Havering and Redbridge University Hospitals NHS Trust

Address: Queen's Hospital
Rom Valley Way
Romford
RM7 0AG

Decision (including any steps ordered)

1. The complainant requested information from Barking, Havering and Redbridge University Hospitals NHS Trust (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The public authority must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 1 September 2023, the complainant wrote to the public authority and requested information in the following terms:

"I would like to request the following information under Freedom of Information Act:

1. Full (unabridged) email sent to [name redacted] (Clinical Group Director for Medicine) raising concerns about [complainants name redacted] on 21 April 2023.

2. Email sent by [name redacted] to [name redacted] (Responsible Officer) about [complainants name redacted] on 6 July 2023.

3. Email exchanges between [name redacted] and [name redacted] related and/or referring to [complainants name redacted] between 6 July 2023 and 31 August 2023.

4. Email exchanges between [name redacted] and [name redacted] containing the subject word "IR1" with "[complainants name redacted]" in the subject and/or text word between 11 December 2022 and 31 March 2023.

5. Email exchanges between [name redacted] and [name redacted] containing the subject word "TB" between 11 December 2022 and 31 March 2023.

6. Email exchanges between [names redacted] related and/or referring to [complainants name redacted] between 11 December 2022 and 31 March 2023.

7. Draft document and/or recorded minutes of any discussion between the Director of Workforce with CPO and/or [name redacted] and/or [name redacted] related and/or referring to [complainants name redacted] between 6 July 2023 and 31 August 2023." (sic)

Reasons for decision

6. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

7. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
8. On 2 November 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s fifth request within 10 working days.
9. The Commissioner noted that most elements of the request sought information which was likely to be the complainant’s own personal data and would thus fall to be dealt with under data protection legislation. They are outside the scope of this notice. This notice deals only with any elements of recorded information which are not the personal data of the complainant.
10. Despite this intervention, however, the public authority has failed to respond to the complainant regarding the information request they submitted.
11. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Other matters

12. Whilst the Commissioner has no power to compel the Trust to do so as part of a decision notice issued under FOIA, he would recommend that the Trust also consider its responsibilities under data protection legislation and respond to the complainant accordingly.

Right of appeal

13. 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

14. 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.
15. 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

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