

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 August 2024

Public Authority: Tees, Esk and Wear Valleys NHS Foundation Trust

Address: West Park Hospital
Edward Pease Way
Darlington
Co. Durham DL2 2TS

Decision (including any steps ordered)

1. The Commissioner's decision is that Tees, Esk and Wear Valleys NHS Foundation Trust ('the Trust') is entitled to refuse parts of the request for information about ADHD referrals under section 12(1) of FOIA. The cost of complying with these parts would exceed the appropriate limit. There was no breach of section 16(1), which concerns advice and assistance, but the Trust breached section 1(1), 10(1) and 17(5) of FOIA in respect of the timeliness of its response.
2. It's not necessary for the Trust to take any corrective steps.

Request and response

3. The complainant submitted a six part request for information to the Trust on 24 November 2023.
4. The Trust responded on 5 February 2024. It addressed four parts of the request and relied on section 12(1) of FOIA to refuse the following two parts:

"[1] Of these referrals made between these dates, how many of these...(c) have had the ADHD screening forms reviewed?"

[2] How many of these referrals made to Selby CAMHS for ADHD assessment between 1st January 2022 and 1st November 2023 have yet to have their ADHD screening forms reviewed?"

5. The complainant requested an internal review on 6 February 2024 in respect of the Trust's reliance on section 12 and the timeliness of its response. The Trust provided a review on 5 March 2024; it indicated the numbers likely to be involved but explained that because of the way information is held, it couldn't provide exact figures.

Reasons for decision

6. In line with the Commissioner's role, this reasoning covers whether the Trust was entitled to rely on section 12(1) of FOIA to refuse parts of the request, whether it was obliged to offer advice and assistance and the timeliness of its response.
7. Under section 12(1) of FOIA a public authority such as the Trust can refuse to comply with a request if the cost of complying with it would exceed the appropriate limit of £450 (18 hours work at £25 per hour).
8. Section 16(1) obliges a public authority relying on section 12 to offer an applicant advice and assistance, if it's possible to do so, to refine their request to bring complying with it within the cost limit.
9. In its internal review, the Trust had explained that its systems don't capture the reviews of screening forms as a standard feature. This wouldn't usually be a 'business as usual' function and, therefore, to gather this level of information would require a manual trawl of all of the records.
10. The Trust said that since September 2023 there's been an increased focus on ensuring screening forms are reviewed promptly. However, without the baseline data the Trust said it's unable to clarify how many people have yet to have their screening forms reviewed from the time period specified in the request.
11. With regard to both elements of the request being considered, in its submission to the Commissioner, the Trust explained that whether screening forms have been reviewed is information that's only contained within the forms themselves. This information isn't then transferred onto any other recording systems eg a database or an electronic recording system. Therefore, to ascertain this information would mean manually trawling through each assessment in turn to compile the response.

12. The Trust said, "We had considered whether the information was readily available and because the information was only presented within the screening form therefore this was not something that we could have directed the requestor to."
13. The Trust went on to say that, with regard to part [1] of the request, 1,048 records are within scope of this part. Its operational team approximated that it would take 15 minutes to review each record and enter the relevant information on to a list. This would equate to 262 hours work, which is clearly above the 18 hours provided under section 12 of FOIA.
14. The Trust has confirmed that it has based the above estimate on the quickest method of gathering the requested information and this is by manually reviewing the records as the information is only contained within each screening form itself. It's not information that's routinely held elsewhere eg on a database or an electronic recording system.
15. The Commissioner accepts the Trust's explanation. He accepts that providing the requested information would take a great deal of time as it would require manually reviewing each relevant record that the Trust holds. Even if it only took the Trust five minutes to review each record, given the volume of records in scope, it would still take over 87 hours to comply with the request.
16. The Commissioner's decision is therefore that the Trust was entitled to rely on section 12(1) of FOIA to refuse parts of the complainant's request.
17. He considers that, given the way relevant information is held, it wouldn't be possible to refine the request so that the Trust could comply with it within the cost limit. As such, there was no breach of section 16(1) of FOIA.

Procedural matters

18. Under section 1(1) of FOIA, a public authority must confirm whether it holds information that's been requested and communicate it to the applicant if it's held and isn't exempt information.
19. Section 10(1) obliges a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
20. Under section 17(5), a public authority relying on section 12 must provide the applicant with a refusal notice within the same time scale.

21. The complainant submitted their request to the Trust on 24 November 2023 and the Trust didn't communicate information and provide a section 12 refusal notice until 5 February 2024. The Trust therefore didn't comply with sections 1(1), 10(1) and 17(5) of FOIA. This has been recorded for monitoring purposes.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF