

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 December 2018

Public Authority: University College London Hospitals NHS
Foundation Trust

Address: 235 Euston Road
London
NW1 2BU

Decision (including any steps ordered)

1. The complainant has requested information relating to the number of transgender patients treated by a particular professor since 2009. The trust responded to the first element of the request, although this was late and incomplete. To the date of this notice the trust has not responded to the second element.
2. The Commissioner's decision is that trust has breached section 10 of the FOIA in this case.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The trust should respond to the second element of the request ("...a view of Consultant activity within the department.") in accordance with the FOIA.
4. The public authority must take these steps 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 29 August 2018, the complainant wrote to the trust and requested information in the following terms:

"How many transgender patients have been actively treated by [name redacted] since 2009? A year by year account would be helpful and a view of Consultant activity within the department."
6. The trust acknowledged receipt of the request on 6 September 2018 and confirmed that it should be processed within 20 working days.
7. As the trust did not respond, the complainant contacted the Commissioner on 1 October 2018.
8. The Commissioner contacted the trust on 4 October 2018 and requested that it responds to the complainant's request by 18 October 2018.
9. The trust contacted the complainant on 17 October 2018 and asked him to provide some clarification in respect of the second element of his request ("...a view of Consultant activity within the department.")
10. The complainant contacted the Commissioner on 17 October 2018 to complain about the trust's latest response. He provided clarification but stated that he did not consider this was required. He also stated that the trust had still not responded to the first element of his request and the need for clarification should not prevent the trust from providing this information.
11. The Commissioner emailed the trust on 22 October 2018. She passed on the clarification the complainant had provided and requested that it process the second element of the request without further delay. In respect of the first element of the request, the Commissioner requested the trust to provide its response as a matter of urgency.
12. The trust responded on 26 October 2018. In relation to the first element of the complainant's request, it issued its response to the complainant that day. Regarding the second element of the request the trust confirmed that it would consider this in more detail and provide a separate response.
13. The complainant contacted the trust on 29 October 2018. He stated that he was unhappy with the response he had received in respect of the first element of his request. He advised that he had been provided with 30 months of data but had asked for the information over a 9 year period. He also chased the trust in respect of the second element of his request and asked that the information is provided by 2 November 2018.

14. The trust responded on 2 November 2018 and provided an update. It stated that it would respond in full by the end of the following week (9 November 2018).
15. The complainant contacted the Commissioner on 7, 13 and 24 November 2018 to discuss the options going forward and to say that he has still not received a response as promised by the trust.

Scope of the case

16. The complainant has been in contact with the Commissioner since 2 October 2018 in relation to this request. He is unhappy with the manner in which it has been addressed by the trust, the delays incurred and the fact that he has still not received a response to the second element of his request and the outstanding information for the first element.

17. Regarding the first element of the request:

"How many transgender patients have been actively treated by Prof Gary Butler since 2009? A year by year account would be helpful.."

As the trust issued a response (albeit late and incomplete), this element of the request is now at the internal review stage. The trust should have recognised the complainant's email of 29 October 2018 as a request for an internal review and processed it as such in 20 working days of receipt in accordance with the section 45 code of practice. The Commissioner has already emailed the trust to request that it responds to the request for internal review by 11 December 2018.

18. The remainder of this notice will address the trust's failure to respond to the second element of the request in accordance with the FOIA:

"....a view of Consultant activity within the department."

Reasons for decision

19. Section 10 of the FOIA requires public authorities to respond to requests for information promptly and in any event within 20 working days of receipt.
20. With regards to the first element of the request, the trust did not issue its response until 26 October 2018. It therefore failed to respond in accordance with section 10 of the FOIA and within the statutory time for compliance.

21. In respect of the second element of the request, the Commissioner understands that to the date of this notice the trust has still not responded. The Commissioner notes that the trust requested the complainant to provide clarification, as it felt it was unable to process this element of the request without it. She acknowledges that this effectively 'stops the clock' and the 20 working day requirement commences again on receipt of the clarification sought. The Commissioner provided the trust with the complainant's clarification on 22 October 2018. It should have processed this element of the request within 20 working days of receipt of the necessary clarification.
22. The Commissioner therefore finds the trust in breach of section 10 of the FOIA. She requires the trust to issue a response to the second element of the complainant's request in accordance with the FOIA.

Right of appeal

23. 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

24. 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.
25. 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

Samantha Coward
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Wycliffe House
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SK9 5AF