

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 July 2019

Public Authority: United Lincolnshire Hospitals NHS Trust

Address: Trust Headquarters
Lincoln County Hospital
Greetwell Road
Lincoln
LN2 5QY

Decision (including any steps ordered)

1. The complainant has made a request for information relating to United Lincolnshire Hospitals NHS Trust's (the Trust) contract with ParkingEye. Despite the intervention of the Commissioner, the Trust has not provided a response to the request in accordance with the FOIA.
2. The Commissioner's decision is that the Trust has failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Trust must provide the complainant with a response to the request in accordance with its obligations under 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 28 June 2019, the complainant wrote to the Trust and requested information in the following terms:

"Please supply the full text of the Trust's contract with ParkingEye. The authority to divulge this is vested in the NHS Conditions of Contract for the Purchase of Goods (September 2010).

A precedent exists in that a similar request was granted by South Tyneside NHS Foundation Trust in 2017.

6. The Trust acknowledged receipt of the complainant's information request on 29 March 2018.
7. The complainant followed up her information request on 8 and 24 April, and 5 May 2019.
8. On 13 May 2019, the Trust wrote to the complainant apologising for the delay in responding to her information request. The Trust advised that it was *"in communication with the contractor about the release of the information and this has resulted in them seeking legal advice. In response the Trust has also taken advice and we are now waiting on an update about the latest position."*
9. The complainant followed up her information request on 22 May 2019. The Trust responded on 23 May 2019, again apologising for the delay in responding to her information request.
10. To date, the complainant has not received a response to her information request.

Scope of the case

11. The complainant contacted the Commissioner on 27 May 2019 to complain about the way her request for information had been handled.
12. The Commissioner has considered whether the Trust dealt with the request in accordance with its obligations under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

13. Section 1(1) of FOIA states any person making a request is entitled to be told whether the information they have asked for is held and, if so, to have that information communicated to them, subject of course to the application of any exemptions that are appropriate.
14. Section 10(1) states that a public authority shall respond to information requests promptly and in any event no later than 20 working days from receipt.
15. The request was made on 28 March 2019 and a response should have been provided no later than 29 April 2019.
16. On 8 June 2019, the Commissioner wrote to the Trust advising it to respond to the request within 10 working days. She provided the Trust with a copy of the request and asked the Trust to state in its response whether or not the requested information was held and, if held, to either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA. She also provided links to her Guide to Freedom of Information, and guidance issued in respect of the time in which a response to a request for information should be provided.
17. On 25 June 2019, the complainant confirmed to the Commissioner that she has still not received a response to the request.
18. The Commissioner followed up the complainant's information request with the Trust on 26 June 2019.
19. To date, the Trust has not provided a response to the complainant. It is clear to the Commissioner that, in this case, the Trust has failed to respond to the request in accordance with the legislation. The Commissioner therefore finds that the Trust breached section 10(1) of the FOIA in failing to respond to the request within 20 working days.

Right of appeal

20. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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

Pamela Clements
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