

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 June 2023

Public Authority: Countess Of Chester Hospital NHS Foundation Trust

Address: Health Park
Chester
Cheshire
CH2 1UL

Decision (including any steps ordered)

1. The complainant requested information relating to the physical assaults of staff. By the date of this notice the Countess Of Chester Hospital NHS Foundation Trust (the Trust) had not issued a substantive response to this request.
2. The Commissioner's decision is that the Trust 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 Trust to take the following step to ensure compliance with the legislation.
 - the Trust must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Trust 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 11 April 2023, the complainant wrote to the Trust and made the following request for information:

- 1) "The total number of physical assaults on staff recorded in 2021/22 and 2022/23 (financial years from April 1 to March 31)
- 2) The total number of physical assaults on staff recorded that involved medical factors in 2021/22 and 2022/23 (financial years from April 1 to March 31)
- 3) The total number of times physical injury to staff was recorded following physical assaults in 2021/22 and 2022/23 (financial years from April 1 to March 31). If possible, please break down the number of injuries reported by severe/major, moderate, and low/minor.
- 4) The total number of times restraint was used on a service user/patient following a physical assault on staff in 2021/22 and 2022/23 (financial years from April 1 to March 31).
- 5) The total number of times was seclusion used on a service user/patient following a physical assault on staff in 2021/22 and 2022/23 (financial years from April 1 to March 31).
- 6) Total number of criminal sanctions applied in relation to physical assaults on staff in 2021/22 and 2022/23 (financial years from April 1 to March 31).
- 7) Total number of civil and administrative sanctions applied in relation to physical assaults on staff in 2021/22 and 2022/23 (financial years from April 1 to March 31).
- 8) The total number of times intended police action in relation to physical assaults on staff was recorded as charge in 2021/22 and 2022/23 (financial years from April 1 to March 31)
- 9) The total number of times intended police action in relation to physical assaults on staff was recorded as verbal warning in 2021/22 and 2022/23 (financial years from April 1 to March 31)
- 10) The total number of times intended police action in relation to physical assaults on staff was recorded as no action in 2021/22 and 2022/23 (financial years from April 1 to March 31)
- 11) The total number of times it was recorded that the victim did not want police to pursue the matter in relation to physical assaults on staff in 2021/22 and 2022/23 (financial years from April 1 to March 31)"

6. The Trust acknowledged receipt of the request on 13 April 2023, providing the complainant with a reference number for their request.
7. The complainant wrote to the Trust on 11 and 22 May 2023, informing it that they had not received a response to their request.
8. To date, a substantive response has not been issued.

Reasons for decision

9. 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.”

10. 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”.
11. On 2 June 2023 the Commissioner wrote to the Trust, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
12. On 6 June 2023, the Trust informed the Commissioner that it was expecting to send a response to this request by close of business on Friday 9 June 2023.
13. Despite this intervention the Trust has failed to respond to the complainant.
14. From the evidence provided to the Commissioner in this case, it is clear that the Trust did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Trust 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.

Right of appeal

15. 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

16. 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.
17. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF