

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 23 July 2024

**Public Authority:** University College London Hospitals NHS Foundation Trust

**Address:** 250 Euston Road  
London  
NW1 2PG

### Decision (including any steps ordered)

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1. The complainant submitted three requests for information to University College London Hospitals NHS Foundation Trust (the Trust) relating to the hereditary angioedema (HAE) service. By the date of this notice, the Trust had not issued a substantive response to these requests.
2. The Commissioner's decision is that the Trust has breached section 10(1) of FOIA by failing to provide a valid response to the requests 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 the complainant with a substantive response to the three requests in accordance with its obligations under FOIA.<sup>1</sup>
4. The Trust must take this step within 30 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.

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<sup>1</sup> The Commissioner expects the public authority to take appropriate precautions to protect any personal data, particularly when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

## Request and response

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### First request

5. On 17 November 2022, the complainant made the following request for information to the Trust:

“Under the Freedom of Information Act 2000 could you please supply a copy of all emails and any recorded information in other forms sent/received between the Clinical Lead of the Department of Specialist Allergy and Clinical Immunology, the Divisional Clinical Director for RNENTEDH, the Medical Director for Specialist Board and the CEO, in the period between March 2020 - May 2020, held on the subject of the hereditary angioedema (HAE) clinic and the clinical immunology service at uclh that I lead.”

6. The Trust acknowledged receipt and provided the complainant with a reference number for this request on 19 November 2022.

### Second request

7. On 26 January 2023, the complainant made the following request for information to the Trust:

“Under the Freedom of Information Act 2000 could you please supply a copy of all emails and any recorded information (such as minutes from the meetings or recordings) in other forms sent/received between the General Manager for Medicine RNENTEDH, the Clinical Director for Medicine RNENTEDH, the Divisional Clinical Director for RNENTEDH, the Medical Director for Specialist Board in the period between March 2021 - January 2023, held on the subject of the hereditary angioedema (HAE) service at UCLH. This should include all information available regarding drug called berotralstat.

In addition, please kindly provide any recorded information regarding the same subject received by the CEO of uclh.”

8. The Trust acknowledged receipt and provided the complainant with a reference number for this request on 1 February 2023.
9. The complainant wrote to the Trust on 5 April 2023 asking if it was possible to change the start date of the time period for their second request from March 2021 to April 2021 as they were referring to the current Chief Executive.

### Third request

10. On 3 February 2023, the complainant made the following request for information to the Trust:

“Under the Freedom of Information Act 2000 could you please supply a copy of all emails and of any recorded information in other forms sent/received by uclh (including all stakeholders) that led to the final letter/ patient communication sent by UCLH to the uclh HAE patients in January 2023 informing them about the service closure.

This should include any draft letters as well as any comments received prior to and leading to the final patient communication sent to the patients.

The final communication is not part of this request as it is known.”

11. The Trust acknowledged receipt and provided the complainant with a reference number for this request on 7 February 2023.
12. Since making these requests, the complainant has been following up with the Trust for a response. The Trust has explained that the reason for the delay is due to its FOIA team needing authorisation to access the email accounts of the staff referred to in the three requests and needing permission to install software to search and download files from those email accounts.
13. A detailed chronology of the follow up correspondence between the complainant and the Trust can be found in the annex at the end of this decision notice.
14. To date, the complainant has not received a response to their requests for information.

### Reasons for decision

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15. 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.”

16. 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".
17. On 29 May 2024, the Commissioner asked the Trust to provide a substantive response to the complainant's three requests within 10 working days.
18. The complainant contacted the Commissioner on 12 and 24 June 2024, stating that they had still not received a response from the Trust to their three requests.
19. On 19 June 2024 the Commissioner contacted the Trust and left a message asking for a call back about this matter.
20. As he did not receive a call back, the Commissioner wrote to the Trust on 28 June 2024 asking it to provide a substantive response to the complainant's three requests within 5 working days
21. Despite this intervention, the Trust has failed to respond to the complainant's three requests.
22. From the evidence provided to the Commissioner in this case, it is clear that the Trust did not deal with these three requests for information in accordance with FOIA. The Commissioner finds that the Trust has breached section 10(1) by failing to respond to these requests within 20 working days and it is now required to respond to the three requests in accordance with FOIA.

## **Other matters**

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23. In his correspondence to the Trust of 29 May 2024, the Commissioner reminded the Trust of its responsibilities under FOIA. In particular, he explained that the complainant had requested copies of letters, minutes and emails during specific time periods. However, the Trust had stated that it was unable to provide the requested information because the FOI team was not allowed to install software to access the email accounts of the individuals named in the requests.
24. The Commissioner reminded the Trust that FOIA applies to all information held by public authorities, and this includes the work email accounts of staff. The Trust must therefore have a way of accessing this information in order to comply with its legal obligations under FOIA,

whether this is via its IT department carrying out appropriate searches, by asking the staff named in the request to carry out those searches themselves, and/or by the FOIA team having the appropriate tools or software to carry out those searches.

25. Furthermore, where the Trust is having difficulty complying with part of an FOIA request, the Commissioner would still expect it to respond to the parts of the request that it is able to within the required timescale (in this case, the information that was not within staff email accounts, such as minutes of meetings and copies of letters).
26. The Commissioner is therefore concerned that the Trust's FOIA team does not appear to have the necessary tools or procedures in place to effectively comply with FOIA requests, as it is not able to access all of the information held by the Trust.
27. Furthermore, the Commissioner is concerned that despite being aware of this issue since at least November 2022 when the initial request in this case was made, the Trust has been unable to resolve this matter over a year later.
28. The Commissioner therefore reminds the Trust that all the information it holds is subject to FOIA. The Trust's FOI team must therefore have the necessary tools and procedures in place to be able to respond to requests, including the ability to access staff email accounts (either technically, or via staff searching their own inboxes).

## **Right of appeal**

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29. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

## Annex

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### Detailed chronology of the follow up correspondence between the complainant and the Trust

32. The complainant followed up their first request with the Trust on 9 January 2023
33. The Trust wrote to the complainant on 10 January 2023 advising that their first request was being processed, but that it required a member of the FOIA team to be given authorisation to access two email accounts. It confirmed that the matter had been chased up, but it couldn't provide an estimated time for a response.
34. The Trust wrote to the complainant again on 24 January 2023, apologising for the continued delay. It explained that each member of staff would potentially have different and shared email trails, and that it was therefore legally required to undertake a through review of all these trails (rather than rely on one email account to provide a basis for its response).
35. The Trust wrote to the complainant on 24 February 2023, advising that the FOIA team had been granted permission to access the various email accounts, but still needed permission to install some software to download the files. It stated that until the software had been installed, it was unable to provide an estimate for when it would respond to the requests.
36. The complainant followed up their second and third request with the Trust on 22 March 2023.
37. The Trust wrote to the complainant on 24 March 2023 advising that the software required to download the files had still not been installed and, due to the length of time that had elapsed, it would probably need to re-apply for permission to gain access to the relevant email accounts. It confirmed that the matter had been escalated to the Trust's SIRO, but that it remained unresolved. The Trust was therefore still unable to provide a date on which it would respond to the requests.
38. The complainant wrote to the Trust on 24 March 2023 questioning whether it had ever received any other FOIA requests for email correspondence, as they assumed it would be a common request. The complainant also asked the Trust how it dealt with such requests. The complainant referred to their spouse (who works for a different Trust), who receives requests for email correspondence from their FOI team on a regular basis and therefore sends those emails to the FOIA team (i.e.

software is not required as staff search their inboxes themselves and provide any relevant emails to the FOI team).

39. The Trust wrote to the complainant on 5 April 2023 explaining that the reason for the delay was because the request related to email correspondence of staff that no longer worked for the Trust, or who were unable to provide copies of emails. Their accounts therefore had to be searched. The Trust confirmed that it still hadn't been provided with access to the software required to carry out searches of the email accounts. It confirmed that its FOIA team did not inform the Trust's management of the identities of the requesters or complainant so that they are treated fairly and that there aren't repercussions for staff making requests or complaints.
40. The complainant wrote to the Trust on the same day explaining that their first request related to staff that had left, but their two subsequent requests related to current staff. The complainant therefore asked whether the Trust could obtain the information for their two most recent requests.
41. The Trust wrote to the complainant on the same day explaining that the second request was for information from March 2021 which incorporated the previous Chief Executive. It stated that for all three requests, some of the current staff had requested that its FOIA team access their email accounts and carry out a search, but this had been delayed due to the FOI team not having the required software. It confirmed that some staff had carried out searches of their email accounts and provided relevant records, but it didn't have a complete response due to the software issue.
42. The complainant wrote to the Trust on the same day asking if it was possible to change the start date of the time period for their second request from March 2021 to April 2021, as they were referring to the current Chief Executive.
43. The complainant followed up all three requests with the Trust on 19 and 28 October 2023.
44. The Trust wrote to the complainant on 30 October 2023, explaining that the FOI team had not been provided with access to the relevant emails accounts to process the requests.
45. The complainant wrote to the Trust on 13 December 2023, requesting that it carry out an internal review of its handling of their three requests for information.



46. The complainant wrote to the Trust again on 27 December 2023, advising that they had not received any acknowledgement of their internal review request and asked the Trust to confirm receipt.
47. The Trust acknowledged receipt of the internal review request on 28 December 2023.
48. The complainant wrote to the Trust on 19 January 2024 following up their internal review request.
49. The complainant wrote to the Trust again on 18 March 2024 asking whether they would receive any information based on their internal review request or if they should take the matter to the Commissioner, as it had been over a year since they submitted their initial request.