

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2016

Public Authority: Southend University Hospital Foundation Trust
Address: Prittlewell Chase
Westcliff-on-Sea
Essex SS0 0RY

Decision (including any steps ordered)

1. The complainant has requested information relating to the "Kingsgate" tender process.
2. The Commissioner's decision is that in failing to respond to this request Southend University Hospital Foundation Trust (the Trust) has breached section 10(1) of the FOIA. Southend University Hospital Foundation Trust is now required to respond to this request.
3. The Commissioner requires the trust to take the following steps to ensure compliance with the legislation.
 - Respond to the request
4. The Trust 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. The complainant had made a previous request relating to the 'Kingsgate' tender and the Trust's Standing Financial Instructions. On 4 January 2016, the complainant wrote to the Trust and requested information in the following terms:

"..please can you supply (under the FOI) all meeting notes, emails, SMS, copies of telephone call etc where the rights under the standing

financial instructions to waiver the requirement to tender were discussed and agreed."

6. The Commissioner contacted the Trust on 29 February 2016 and asked it to provide a full response to the request within 10 working days.
7. The Trust wrote to the complainant on 4 March 2016 advising it was still in the process of gathering the information for the response. By the date of this notice the Trust had failed to provide a response to this request.

Scope of the case

8. The complainant initially contacted the Commissioner on 5 January 2016 to complain about the way his first request for information had been handled.
9. Following the Commissioner's intervention the complainant received a response to his previous request. This decision notice relates to the follow-up request detailed in paragraph 5.

Reasons for decision

Section 1 of the FOIA

10. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

Section 10 of the FOIA

11. Section 10(1) of the FOIA states "*...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.*"
12. In this case the Trust has breached section 10(1) by failing to respond to the request within 20 working days.
13. As stated at paragraph 3 above the Trust is now required to respond to the complainant's request in accordance with the FOIA.

Right of appeal

14. 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

15. 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.
16. 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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SK9 5AF