

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 August 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 the actions of Total Parking Solutions (TPS), and the contract between United Lincolnshire Hospitals NHS Trust (the Trust) and TPS. 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 8 May 2019, the complainant wrote to Trust via the WhatDoTheyKnow website and requested information in the following terms:

"Total Parking Solutions (TPS) formally provided parking management for the Trust on their hospital sites but lost the contract over a year ago. TPS have recently threatened & actually initiated court claims for alleged debts for parking charges said to have been incurred by ULHT staff members with parking permits using staff car parks at the Trust infringing parking rules in some way. These claims refer to incidents that occurred up to five years ago.

Please can you confirm whether TPS ever initiated legal action against a ULHT staff member when they were managing parking on behalf of the Trust or is it only since the end of the contract that such claims have been initiated?

Please can you confirm whether TPS ever initiated legal action against any patient, visitor or other person(s) when they were managing parking on behalf of the Trust or is it only since the end of the contract that such claims have been initiated?

Please can you also provide a copy of the contract between the Trust & TPS. It is acceptable to redact commercially sensitive information but I am particularly interested in any clauses that pertain to TPS pursuing court action against members of staff, patients or visitors who are alleged to have incurred a parking charge for infringing parking rules."

6. The Trust acknowledged receipt of the information request on 9 May 2019.
7. The complainant followed up his information request with the Trust on 7 June 2019. The Trust responded on 11 June 2019, apologising for not responding to the information request within the 20 working days. It advised the complainant that it was *"in the process of gathering the necessary information required in-order to satisfy your request which is taking longer than anticipated."*
8. The complainant requested an internal review on 25 June 2019.
9. To date, the complainant has not received a response to his request for information.

Scope of the case

10. The complainant contacted the Commissioner on 7 July 2019 to complain about the way his request for information had been handled.
11. 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

12. 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 to the application of any exemptions that are appropriate.
13. 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.
14. The request was made on 8 May 2019 and a response should have been provided no later than 6 June 2019.
15. On 20 July 2019, the Commissioner wrote to the Trust advising it to respond to the request within 10 working days. She provided the Trust with a link to the request on the WhatDoTheyKnow website 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.
16. On 3 August 2019, the complainant confirmed to the Commissioner that he has still not received a response to the request.
17. 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

18. 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

19. 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.
20. 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