

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 November 2019

Public Authority: Chesterfield Royal Hospital NHS Foundation Trust

Address: Calow
Chesterfield
S44 5BL

Decision (including any steps ordered)

1. The complainant has requested Chesterfield Royal Hospital NHS Foundation Trust (the trust) to disclose information relating to the number of Flowtron Boots in working order and purchased at certain dates in 2016. The trust disclosed the requested information but provided its response late.
2. The Commissioner's decision is that the trust breached section 10 of the FOIA by failing to respond to the complainant's information request within 20 working days of receipt. But as the information has now been supplied, she does not require any further action to be taken.

Request and response

3. On 17 August 2018 the trust received the following request for information from the complainant:

"The number of Flowtron Boots in working order in CRH on March 1st 2016

The number of Flowtron Boots purchased in the three months after March 1st 2016

The number of Flowtron Boots in working order in CRH on June 1st 2016"

What is the hospital's code of practice and/or policy regarding patients suffering embolisms or unusual pain during their time in recovery?"

4. The complainant contacted the trust by telephone on 17 September 2018 as he had not received the requested information.
5. The trust responded on 18 September 2018 to the email address the complainant provided (although the complainant later confirmed that this was never received. A further copy was later provided by post). The trust confirmed that the response explained that there is no policy of the description specified in the request but provided a spreadsheet of the information requested in relation to Flowtron Boots.
6. The complainant requested an internal review on 1 October 2018. He raised concerns about the delay in responding, stated that the spreadsheet provided relating to the Flowtron Boots was unclear and did not respond to his specific questions and disputed the non existence of the policy described in his original request.
7. The internal review was completed and the complainant was notified of the trust's findings on 26 October 2018. This provided the number of machines working on the dates specified and confirmed the number of flowtron garments purchased between March and June 2016. It stated again that no policy of the nature specified is held and acknowledged that it had breached section 10 of the FOIA by failing to respond in 20 working days.

Scope of the case

8. The complainant contacted the Commissioner on 21 November 2018 to complain about the way his request for information had been handled. He stated that he was dissatisfied that the original response was not provided within the statutory timeframe for compliance and that it would have been received even later had he not repeatedly contacted the trust by telephone. He confirmed that he did not receive the original response of 18 September 2018 via email or post as the trust stated and that when the information was provided it was found to be unclear and did not address his questions. He also disputed a statement that the trust made regarding a copy of the response being left at reception for his collection. He advised that he was never informed that a copy was available for collection at reception only that the information would be sent 'this evening'.
9. While the Commissioner may appreciate that the confusing message and non receipt of responses will have frustrated matters, she is limited to considering whether there has been any procedural breaches of the

FOIA knowing now that the complainant is in receipt of the requested information.

10. This will therefore be the focus of the remainder of this notice.

Reasons for decision

11. Section 1(1) of the 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.
12. Section 10 of FOIA states that 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.
13. It is apparent in this case that a response was not issued until 18 September 2018; a day late. The Commissioner therefore finds the trust in breach of section 10 of the FOIA in this case.

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@justice.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

Samantha Coward
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