

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 1 June 2022

**Public Authority:** The Whittington Health NHS Trust  
**Address:** Magdala Avenue  
London  
N19 5NF

### **Decision (including any steps ordered)**

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1. The complainant requested information in relation to DHL Patient Transport. By the date of this notice, Whittington Health NHS 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 that 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

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5. On 9 July 2021, the complainant alleges that they wrote to the Trust and requested information in the following terms by post:

"Please provide the cost of transporting patients from home to care provider (the Service) month-on-month for three years prior to that service being taken over by DHL.

Please provide the cost of the Service month-on-month from the point at which DHL took over that service until last month.

Please detail the contractual provisions for ensuring that DHL complies with the minimum standards of the contract for the service, how you implement them, and who is responsible for them.

Please detail the consequences where DHL fails to comply with those minimum standards.

Please provide details of how patient concerns were placed at the heart of the decision to outsource the Service to DHL.

Please detail when an escort or carer should be allowed to escort a patient to their hospital appointment, and what are the consequences imposed if DHL fail to comply.

In your contract specifications with your provider, what is the maximum time, from when transport is requested, within which the patient must be collected for an outbound journey.

In your contract specifications with your provider, what is the maximum time, from when transport is requested, within which the patient must be collected for an inbound journey.

Is there a patients' user group involved in the oversight of the patient transport contract? If not do you have any mechanisms through which patient transport users are involved in the governance of patient transport.

Please provide details of all complaints which have been made about the Service since DHL began providing it. Please state what categories these were classified by for example, driver behaviour, lateness, early arrivals, etc and how many complaints were in each category.

How many hospital appointments have been missed due to patient transport lateness (other than due to severe weather conditions

affecting the patient transport service since DHL was awarded the contract.

How many times was there a discharge delay due to patient transport issues since DHL was awarded the contract.

Please provide the date that the service contract with DHL is up for renewal."

6. There is no evidence that the Trust acknowledged the request. To date, a substantive response has not been issued.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 10 February 2022 to complain about the Trust's failure to respond to their request.
8. On 3 March 2022 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.
9. The Trust wrote back to the Commissioner on 4 March 2022 advising that it had no record of the correspondence dated 9 July 2021. The Trust said that it would log the request as being received on 3 March 2022 and process it in line with the Act.
10. On 6 April 2022, the Commissioner wrote to the Trust again, giving a further 10 working days to provide the complainant a response to their information request.
11. The Commissioner has considered whether the Trust has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

### **Reasons for decision**

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12. 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."

13. Section 10(1) of the 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".
14. Despite the Commissioner's intervention, the Trust has failed to respond to the complainant.
15. 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

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16. 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)

17. 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.
18. 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 .....**

**Catherine Fletcher**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**