

**FREEDOM OF INFORMATION ACT 2000 (SECTION 52)  
ENFORCEMENT POWERS OF THE INFORMATION COMMISSIONER  
ENFORCEMENT NOTICE**

**DATED: 3 July 2025**

**To: Nottingham University Hospitals NHS Trust**

**Of: Trust Headquarters  
City Hospital Campus, Hucknall Road  
Nottingham  
Nottinghamshire  
NG5 1PB**

1. Nottingham University Hospitals NHS Trust (the Trust) is a “public authority” listed in Schedule 1 and defined by section 3(1)(a)(i) of the Freedom of Information Act 2000 (“**FOIA**”). FOIA provides public access to information held by public authorities.
2. The Trust’s obligations as a public authority under FOIA include –
  - a. Being obliged to publish certain information about its activities;
  - b. Responding to requests for information from members of the public.
3. The Information Commissioner (the “**Commissioner**”) hereby issues the Trust with an Enforcement Notice (the “**Notice**”) under section 52 FOIA. The Notice is in relation to the Trust’s
  - a. Continuing non-compliance with section 1(1) FOIA;
  - b. Continuing breach of section 10(1) FOIA.

4. This Notice explains the Commissioner's decision to take enforcement action. The specific steps that the Trust is required to take are set out in **Annex 1**.

### **Legal Framework for this Notice**

5. A person requesting information from a public authority has a right, subject to exemptions, to be informed by the public authority in writing whether it holds the information, and to have that communicated to him, if the public authority holds it. This is set out in section 1(1) FOIA–

“(1) 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.”

6. Section 10(1) FOIA specifies that public authorities must respond to requests within 20 working days:

“... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt.”

7. There is provision under FOIA for a public authority to claim a reasonable extension to this limit in certain circumstances but in all cases, the public authority must give the requester a written response

within the standard time limit for compliance.

8. The Commissioner has various powers under FOIA. One of these is the issuing of an Enforcement Notice. Section 52(1) of FOIA states –

“If the Commissioner is satisfied that a public authority has failed to comply with any of the requirements of Part I, the Commissioner may serve the authority with a notice (in this Act referred to as an “enforcement notice”) requiring the authority to take within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements.”

9. Section 52 FOIA has effect subject to section 53 FOIA, which provides details of the exceptions from the duty to comply with a decision notice or enforcement notice.

### **Background**

10. Following pro-active work carried out on a sample of NHS Trusts about their overall handling of FOIA requests, it came to the Commissioner’s attention that the Trust had a very low rate of compliance requiring further investigation.

11. The Commissioner contacted the Trust on 9 April 2025 and asked for its performance statistics.

12. On 10 April 2025 the Trust provided its performance statistics by email for the latest quarter (quarter four 2024/25) of compliance. Quarter four’s figures show a 17% compliance rate with 536 open requests, of which 309 cases were over six months old and 196 cases over one year old.

## **The Contravention and Reasons for this Notice**

13. FOIA requires a public authority to inform people whether it holds information they have requested and to communicate it to them within 20 working days of receipt of their request.
14. On 12 May 2025 the ICO met with the Trust via Teams to discuss the position. The triggers for non-compliance were several. The Trust explained that until January 2024 when it implemented a digital platform, it had processed everything manually. In 2023 the Trust believed that it only had 250 FOI requests in progress but after implementation it became clear that there were far more. This discrepancy was apparently due to the use of spreadsheets, emails and a shared inbox which had resulted in confusion as to whether the final response had been approved or not.
15. The Trust has a new digital platform now that has enabled it to have access to a clear list and see the status of each request. This means that all requests are managed digitally which has resulted in a significant improvement in the Trust's reporting capabilities and oversight across the organisation. The Trust now has a transparent process.
16. Additional improvements are:
  - Although the Trust currently has no action plan in place there is much more attention and visibility of FOI at senior leadership level with FOI statistics now being reported through the Audit Committee and to the Digital & Strategic Committee on a monthly basis and bi-monthly to the Finance and Audit Committee. Statistics are also reported in the annual SIRO report.

- The Trust is focusing on the publication scheme to encourage requesters to check if the information they have requested is already in the public domain.
- The Trust is providing more support for staff in order to increase proactivity and accountability, and in turn decrease missing deadlines and increase compliance. Its approach is to prioritise oldest to newest FOIs first but if a chaser comes in on a request they will respond and deal with that request. New requests are logged and allocated to the appropriate area within two working days.
- There is annual training carried out, conducted by external solicitors.

17. The Commissioner notes that the Trust is taking its obligations seriously and that a system has been put in place to improve both compliance and the accuracy of its statistics.

18. However, the Trust still has a statutory duty to respond to requests for information in a timely manner. It is imperative that the Trust recognises the importance of clearing its backlog and the legal implications of failing to do so. It is important that it has proper plans in place to reach, and then maintain, high levels of compliance with FOIA.

19. With this in mind, the Commissioner considers that imposing a legally binding set of steps for the Trust to take, and an enforceable deadline for taking them, makes clear the priority that the Commissioner considers this task should be given. It also provides a definitive backstop to ensure the Trust's backlog figures do not deteriorate further.

20. Taking into account the significant number of outstanding requests

and the need for sustained improvement in timely FOI responses, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice requiring the Trust to comply with section 1(1) of FOIA in respect of all its outstanding requests. It is essential that the improvements that the Trust has indicated it has seen are sustained and that the improvements described in **Annex 1** are implemented which compliance with this Notice will support.

21. The Commissioner also considers it a proportionate regulatory step to require the Trust to devise and publish an action plan, which formalises measures to mitigate delays. This action plan should be supported by a 'lessons learned' exercise, which examines the root cause of delays in request handling, from allocation through to clearance at different stages, with mitigations for any recurring problems addressed specifically in the plan.

### **Other Matters**

22. The Commissioner considers that the Trust may benefit from using his [self-assessment toolkit](#) which is designed to help public authorities assess their current FOI performance and provide indicators of where efforts should be focused in order to improve. Topic 1 is particularly relevant as it deals with timeliness.

23. The Commissioner notes that the Trust does not currently publish its timeliness statistics to provide transparency about its performance. The Commissioner cannot require this as part of an enforcement notice under FOIA but reiterates that the Trust should do this in line with the section 45 Code of Practice.

24. He would also recommend that the Trust publishes, on a monthly basis, its progress in clearing its FOIA backlog in line with the updates

it gives the Commissioner about its compliance with this notice.

### **Terms of this Notice**

25. The Commissioner therefore exercises his powers under section 52 of FOIA to serve an Enforcement Notice requiring the Trust to take specified steps to comply with FOIA. The specified steps are set out in **Annex 1** of this Notice.

26. The consequence of failing to comply with an Enforcement Notice is that the Commissioner may make written certification of this fact to the High Court pursuant to section 54 of FOIA. Upon consideration and inquiry by the High Court, the Trust may be dealt with as if it had committed a contempt of court.

### **Right of Appeal**

27. By virtue of section 57 of FOIA there is a right of appeal against this Notice to the First-tier Tribunal (Information Rights). If an appeal is brought against this Notice, it need not be complied with pending determination or withdrawal of that appeal.

28. Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
General Regulatory Chamber  
PO Box 11230  
Leicester  
LE1 8FQ

Tel: 0203 9368963

Email: [GRC@justice.gov.uk](mailto:GRC@justice.gov.uk)

Reference: ENF0988366

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

29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Enforcement Notice is sent.

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

## **Annex 1**

### **TERMS OF THE ENFORCEMENT NOTICE**

#### **THIS NOTICE REQUIRES NOTTINGHAM UNIVERSITY HOSPITALS NHS TRUST TO TAKE THE FOLLOWING STEPS BY THE DATES SPECIFIED BELOW:**

By 31 December 2025, the Trust shall:

- (i) review each of the 536 open requests and close any correspondence that does not require action, for example, requests for clarification where this has not been provided by the requester.
- (ii) for those requests where the response is outside of 20 working days as at the date of this notice, and where a permitted extension has not been applied, comply with section 1(1)(a) of FOIA and, if information of the description specified in the request is held, either:
- (iii) communicate that information pursuant to section 1(1)(b) FOIA; or issue a valid refusal notice under section 17 FOIA, unless section 17(6) FOIA applies.

Within 35 calendar days of this notice, the Trust shall:

- (iv) devise and publish an action plan formalising the measures it will take to ensure it complies with its legal duties under Part 1 of FOIA to respond to information requests in a timely fashion, whilst also clearing its backlog of late requests by 31 December 2025 as required by this notice.