

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 February 2019

Public Authority: Wirral University Teaching Hospital NHS Foundation Trust

Address: Arrowe Park Hospital
Arrowe Park Road
Upton
Wirral
CH49 5PE

Decision (including any steps ordered)

1. The complainant has made a request for information relating to physical assaults on staff. Despite the intervention of the Commissioner, Wirral University Teaching Hospital NHS Trust (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 3 December 2018, the complainant wrote to the Trust and requested information in the following terms:

"Under the Freedom of Information Act, please could you provide me with the following information (most likely as reported through the Security Incident Reporting System (SIRS)):

- The total number of physical assaults on staff recorded in 2016/17 (financial year from April 2016 to March 2017) and in 2017/18 (financial year from April 2017 to March 2018)*
- The total number of physical assaults on staff recorded that involved medial factors in 2016/17 and in 2017/18*
- The total number of times physical injury was caused in 2016/17 and in 2017/18*
- The total number of times was restraint used following a physical assault in 2016/17 and in 2017/18*
- The total number of times was seclusion used following a physical assault in 2016/17 and in 2017/18*
- Total number of criminal sanctions applied in relation to physical assaults in 2016/17 and 2017/18*
- Total number of civil and administrative sanctions applied in relation to physical assaults in 2016/17 and 2017/18*
- The total number of times intended police action in relation to physical assaults was recorded as charge in 2016/17 and 2017/18.*
- The total number of times intended police action in relation to physical assaults was recorded as verbal warning in 2016/17 and 2017/18.*
- The total number of times intended police action in relation to physical assaults was recorded as no action in 2016/17 and 2017/18.*
- The total number of times it was recorded that the victim did not want police to pursue the matter in relation to physical assaults in 2016/17 and 2017/18.*
- Total number of staff reported by the trust at March 31, 2017 and at March 31, 2018.*

Please provide this information as a spreadsheet or CSV file."

6. On 5 December 2018, the complainant wrote to the Trust to check whether it had received her FOIA request because she had not received an acknowledgement.
7. On 14 December 2018, the complainant wrote to the Trust asking it to confirm receipt of her FOIA request.
8. On 14 December 2018, the Trust responded to the complainant and advised that it had not received the complainant's previous emails. The Trust confirmed that the complainant's FOIA request had been forwarded to the Access for Information Team.

Scope of the case

9. The complainant contacted the Commissioner on 18 January 2019 to complain about the way her request for information had been handled.
10. 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

11. 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 of course to the application of any exemptions that are appropriate.
12. 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.
13. The request was received on 14 December 2018 and a response should have been sent on 17 January 2019.
14. On 26 January 2019, the Commissioner wrote to the Trust advising it to respond to the request within 10 working days. She provided the Trust with a copy of the request 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.

15. On 15 February 2019, the complainant confirmed to the Commissioner that she has still not received a response to the request.
16. 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

17. 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

18. 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.
19. 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
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Wilmslow
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SK9 5AF