

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 May 2019

Public Authority: East and North Hertfordshire NHS Trust

Address: Lister Hospital
Coreys Mill Lane
Stevenage
SG1 4AB

Decision (including any steps ordered)

1. The complainant has requested information regarding the number of complaints that East and North Hertfordshire NHS Trust ("the Trust") had agreed to investigate between April 2009 and September 2010.
2. The Commissioner's decision is that the Trust has failed to respond to the request within 20 working days, and breached section 10(1) of the FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The Trust 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 25 January 2019, the complainant wrote to the Trust and requested information in the following terms:

"How many NHS complaints did E&NHT agree to investigate in recognition of their Complaints Policy v2 Sept 2007 between 1st April 2009 and 30 September 2010 prior to replacing it with version 3 on 15

October 2010? Please administer this further request for information in compliance with the Freedom of Information Act 2010 [sic]"

6. The Commissioner notes that the request was sent to a named individual at the Trust, rather than to the central FOI contact email address.
7. On 19 March 2019, the Commissioner contacted the Trust to ask it whether it had received the request, and to remind it about its obligations to respond to the complainant's request.
8. At the time of this decision notice neither the Commissioner nor the complainant has received a response from the Trust.

Scope of the case

9. The complainant contacted the Commissioner on 26 February 2019 to complain about the failure of the Trust to respond to his request.
10. The Commissioner has considered whether the Trust has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

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(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."
13. As noted above, the Commissioner wrote to the Trust, asking it if it had received the request, and reminding it of its responsibilities to respond. Despite this communication, the Trust has failed to respond to either the Commissioner or the complainant.
14. From the information available to the Commissioner in this case, it is unclear as to whether the Trust received the request for information. However, the Trust has not responded to the letter sent to the FOI

team's central email address to ascertain this. Therefore, the Commissioner finds that the Trust has breached section 10(1) by failing to respond to the request within 20 working days. It is now required to respond to the request in accordance with the FOIA.

Right of appeal

15. 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

16. 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.
17. 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

Jill Hulley

Senior Case Officer

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF