

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

### **Decision notice**

**Date:** 1 August 2019

**Public Authority:** Imperial College Healthcare NHS Trust

**Address:** St Mary's Hospital  
South Wharf Road  
London  
W2 1NY

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

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1. The complainant has made a request for information relating to agency, temporary and/or locum doctors in A&E departments. Despite the intervention of the Commissioner, Imperial College Healthcare 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**

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5. On 22 February 2019, the complainant wrote to the Trust and requested information in the following terms:

*"Under the Freedom of Information Act, please can you provide me with:*

- The amount spent on employing agency, temporary and/or locum doctors in A&E departments in each month in 2017 and 2018*
- The number of FTE roles in A&E departments covered by agency, temporary and/or locum doctors in each month in 2017 and 2018*
- The total number of FTE doctors (including agency, temporary and/or locum and permanent staff) working in A&E departments in each month in 2017 and 2018*

*If possible, please provide a breakdown for each item between consultants and junior/other grades.*

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

6. The Trust acknowledged receipt of the request for information on 25 February 2019.
7. To date, the complainant has not received a response to the request for information.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 24 June 2019 to complain about the way her request for information had been handled.
9. 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**

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#### **Section 10 – time for compliance**

10. 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 to the application of any exemptions that are appropriate.
11. 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.

12. The request was made on 22 February 2019 and a response should have been provided no later than 22 March 2019.
13. On 29 June 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.
14. On 22 July 2019, the complainant confirmed to the Commissioner that she has still not received a response to the request.
15. 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

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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: 0300 1234504

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 .....**

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