

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 December 2020

Public Authority: United Lincolnshire Hospitals NHS Trust

Address: Trust Headquarters
Lincoln County Hospital
Greetwell Road
Lincoln
LN2 5QY

Decision (including any steps ordered)

1. The complainant has requested information relating to the decision to exclude partners from antenatal ultrasound scans. Despite the intervention of the Commissioner, United Lincolnshire Hospitals 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 4 August 2020, the complainant wrote to the Trust and requested information in the following terms:

"Please provide all documents since the beginning of March 2020 relating to the decision to exclude partners from antenatal ultrasound scans. This includes emails, minutes of meetings, notes of phone calls, faxes, printed materials, etc.

Please name the person ultimately responsible for making the decision.

Please list any commercial interests that staff of the United Lincolnshire Hospitals NHS Trust have in private clinics that provide antenatal ultrasound scans."

6. The Trust acknowledged receipt of the request on 4 August 2020.
7. The complainant advised the Commissioner that he followed up his request with the Trust on 14 October 2020.
8. To date, the complainant has not received a response to his request for information.

Scope of the case

9. The complainant contacted the Commissioner on 19 October 2020 to complain about the way his 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 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 made on 4 August 2020 and a response should have been provided no later than 1 September 2020.

14. On 28 October 2020, the Commissioner wrote to the Trust advising it to provide the complainant with a response that complies with the FOIA within 10 working days. She provided the Trust with a copy of the request. She also provided links to her guidance on the timescales for responding to a request for information and on refusing a request.
15. On 5 December 2020, the complainant confirmed to the Commissioner that he has still not received a response to the request.
16. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA. The Commissioner has made it clear that she will allow flexibility where this is required by public authorities in order to respond to the pandemic.
17. However, in this case, the complainant submitted his request to the Trust on 4 August 2020 and to date has not received a response. The Commissioner therefore finds that the Trust has breached section 10(1) of the FOIA in failing to respond to the request within 20 working days.

Right of appeal

18. 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

19. 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.
20. 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