

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 5 October 2021

**Public Authority:** University Hospitals Plymouth NHS Trust  
**Address:** Derriford Road  
Crownhill  
Plymouth  
PL6 8DH

#### Decision (including any steps ordered)

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1. The complainant has requested an areas specific table of scans undertaken for severe headaches listed as migraines. University Hospitals Plymouth NHS Trust ("the Trust") stated that this information was not held.
2. The Commissioner's decision is that, on the balance of probabilities, the information is not held by the Trust and it has complied with its obligations under section 1(1) of the FOIA.

#### Request and response

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3. On 3 July 2020 the complainant made a request to the Trust for information in the following terms:  
*"Can the department please supply a simple monthly table which is local area specific to Plymouth (i.e. postcode area) from Jan 2014 to May 2020 regarding the amount of scans undertaken for severe headaches that has been listed as migraines."*
4. On 6 July 2020 the Trust asked the complainant to clarify what scans were required and the complainant responded on the same date that his request was for all scans.
5. The Trust responded on 6 August 2020 stating that the specific information requested was not held as although migraines are

mentioned within patient records and the same patient may have a scan, there is no direct correlation between the two events recorded.

6. The complainant responded and stated that he had requested scans from just one department but the Trust argued that this was not relevant to the request as it still could not extract a report linking scans to migraines. An internal review was then requested on 8 August 2020.
7. The internal review outcome was provided on 24 August 2020 and upheld the response.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 24 August 2020 to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of her investigation to be to determine if the Trust has correctly stated that it does not hold the requested information in line with its responsibilities under section 1(1) of the FOIA.

### **Reasons for decision**

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#### **Section 1 – is the information held?**

10. 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."*

11. In cases where a dispute arises over the extent of the recorded information held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by a public authority to check that the information is not held and any other explanations provided by the authority to explain why the information is not held.
12. The Commissioner is not required to prove beyond any doubt that the information is or is not held, she is only required to make a judgement on whether, on the balance of probabilities, the information is held.

13. The complainant has argued that he had asked only for scans from a specific doctor's department and that this should have enabled the Trust to provide the requested information. The complainant had suggested a search to identify migraines which could have been used to obtain the relevant information from this department's scans.
14. In explaining its position, the Trust provided some information on its healthcare records and electronic systems. It explained that scan requests are recorded on an electronic system for patient administration of imaging. These scans are coded; they have a drop down field so that reports on types and numbers of scans can be extracted. There is also free text fields and reports cannot be run off these fields. The Trust explained that this clinical history is not the diagnosis but the presenting symptoms that prompted the request for a scan.
15. The Trust also has another electronic patient administration system for recording inpatient and outpatient activity. In this system, diagnosis is coded and recorded electronically for inpatients only.
16. The Commissioner has considered whether it is possible the information is held, albeit difficult and possibly cost and time prohibitive to obtain. She had found in a previous decision notice involving this Trust (IC-52620-R4Y4) that information on a different type of scan for a different reason was held but it would exceed the cost limit to comply with the request due to the number of scans conducted over the time period specified and the need to refer to two different electronic systems and reference the free text boxes.
17. In this case, the situation is similar but the distinction is that this request relates to a different type of scan, head scans, which are identifiable from a drop down field in the patient administration system. If 'migraine' was listed as a reason for this type of scan being requested then it would be contained in a free text box and it is arguable that the Trust would hold the requested information. That is not to say that it would be disclosable under the FOIA as it may be exempt. However, that is not the issue at hand here.
18. In this case the issue is that, as the Trust states, there is no direct correlation between migraines and head scans. Essentially, although migraines may be listed as a symptom in a patient record they would not be directly recorded as the reason for a scan so there is no way of linking the information together to provide the requested numbers; simply put migraines are not in and of themselves a clinical reason for a scan to be undertaken but they may be a symptom.

19. The Commissioner considers that the Trust has provided convincing explanations as to why it does not hold the particular data that the complainant has requested.
20. Although the complainant did provide some suggestions to the Trust on how to best search for the information it would not have made any difference as the information simply is not held in the way it has been requested. The Commissioner does not consider that the complainant has provided any persuasive or compelling argument to explain why this information would be held.
21. The Commissioner is therefore satisfied that the Trust does not hold the information requested and has complied with its duty under section 1(1) of the FOIA.

## Right of appeal

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22. 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: 0203 936 8963

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)

23. 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.
24. 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**