

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 December 2021

Public Authority: Oxford University Hospitals NHS Foundation Trust

Address: John Radcliffe Hospital
Headley Way
Headington
Oxford
OX3 9DU

Decision (including any steps ordered)

1. The complainant submitted a request to Oxford University Hospitals NHS Foundation Trust (“the Trust”) requesting a copy of the risk assessment upon which the decision to limit people giving birth to one companion was made. By the date of this notice, the Trust had not issued a substantive response to this request.
2. The Commissioner’s decision is that the Trust failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
 - The Trust must provide a substantive response to the request in accordance with its obligations under 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 26 July 2021, the complainant wrote to the Trust and requested information in the following terms:

"...we are aware of the 19th July 2021 review of OUH visitor policies in maternity services. We are concerned that the Trust has decided to continue the policy of limiting people giving birth in CLUs and MLUs to one companion, and of purporting to limit those birthing at home to two companions... therefore we are writing to request a copy of the risk assessment upon which this recent decision was based. Please consider this a formal request under the Freedom of Information"

6. The Trust acknowledged that their response was overdue on 23 August 2021 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 25 August 2021 to complain about the failure, by the Trust, to respond to the request.
8. In line with his usual practice, the Commissioner contacted the Trust on 21 September 2021 to highlight the outstanding response. He requested that the Trust respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The scope of this notice and the following analysis is to consider whether the Trust has complied with section 10 of the FOIA.

Reasons for decision

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. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Trust has breached section 10 of 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: 0203 936 8963

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

Phillip Angell
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF