

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 October 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 requested information from Oxford University Hospitals NHS Foundation Trust ("the Trust") about staff redeployed due to Covid during the period March 2020 to date and other related information. 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 has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Trust to take the following step 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 this step 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 29 June 2021, the complainant wrote to the Trust and requested information in the following terms:

"I would like to make a Freedom of Information Request to Oxford University's Hospitals NHS Foundation Trust for the following please:

1 How many staff you have had to redeploy due to being at very high/high or other adverse covid risks following risk assessments over the period of March 2020 to today, 29th June 2021, making them unable to work in their substantive departments?

2 How many of these staff were Admin & Clerical, how many medical, how many nursing and how many 'other' groups of staff?

3a How many staff who were unable to work onsite due to their risk to Covid were moved to work from home in their substantive posts during this period?

3b How many of these staff were moved temporarily to new roles and how many were moved permanently?

3c How many staff remain working from home due to their covid risk remaining high/very high?

4 How many of these staff have, due to Covid, been unable to return to their substantive posts because of being at 'very high risk' following updated risk assessments?

5 How many of these staff are therefore going or have gone through the formal redeployment process?

6 How many staff were refused formal redeployment process to a different substantive role despite being at high/very high risk following updated covid risk assessment?

7 How many have left following formal redeployment process because they were unable to find a new suitable substantive position in the Trust?

8 How many have left because they were refused formal redeployment whilst remaining at high/very high risk following updated covid risk assessment?

9 Can you supply a list stating each Departments status - ie Red Area, Amber Area, Green Area?

10 How many staff do you currently have off work who have cited 'stress at work' on their fit notes?

11 Over the past year, on a month by month basis, how many vacant Admin & Clerical posts have you advertised? IE January 2021 = 100 posts.

12 Have you been actively seeking to support staff at high/very high risk of covid to redeploy in to other substantive vacancies?

13 How many positions have you amended to suit a redeployed member of staff to help them secure a different substantive role? IE Full time post in Gastro Admin amended to a part time role to support the moving of Freda Bloggs and then the remaining hours re-advertised as a part time role.

14 Are you adhering strictly to the risk assessments by not placing high/very high risk members of staff in to red and amber work areas and instead supporting them to move to a green work area?

15 How are you supporting your staff who are high/very high risk following updated risk assessments and are refused formal redeployment, so are having to consider returning to a red or amber work area and have a high level of anxiety over doing so?

Thank you. If you require any further information from me, please do get in touch."

6. The Trust acknowledged the request on 29 June 2021. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 15 September 2021 to complain about the Trust's failure to respond to their request.
8. 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

9. 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."

10. 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"*.

11. On 6 October 2021 the Commissioner wrote to the Trust, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

12. Despite this intervention the Trust has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that the Trust did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Trust has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

14. 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

15. 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.
16. 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

Catherine Fletcher
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Wycliffe House
Water Lane
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SK9 5AF