

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 August 2022

Public Authority: Royal Berkshire NHS Foundation Trust
Address: Royal Berkshire Hospital
London Road
Reading
RG1 5AN

Decision (including any steps ordered)

1. The complainant requested information about Covid outbreaks at the hospital during a specified period of time. By the date of this notice, Royal Berkshire NHS Foundation Trust ("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 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 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 June 2022, the complainant wrote to the Trust and requested information in the following terms:

"Please take the below as a Freedom of Information Request. As they are additional/new questions, I imagine you may assign a new FOIA number, but please take this email as a Freedom of Information Request and send an acknowledgement receipt:

1. Please send me a full unredacted copy of [XXREDACTEDXX] which you have previously supplied in redacted form.
2. Please send all other reports/documents for investigations concerning Covid-19 Outbreaks and hospital onset cases including cases from January, February and March 2021. So that is all reports other than those you have already supplied.
3. In relation to hospital acquired Covid-19 deaths, please let me know how many next of kin/families have been given a Duty of Candour letter and how many next of kin/families have been given a copy of a summary report. For clarity, the hospital notes that some patient deaths (with hospital acquired Covid-19) required patient safety investigations, therefore:
 - . How many (please provide the figure) next of kin/families have been provided Duty of Candour letter?
 - . How many (please provide the figure) next of kin/families were supplied a summary report or executive summary?
 - . How many (please provide the figure) next of kin/families were supplied with Executive Summary of [XXREDCATEDXX]?
 - . How many (please provide the figure) next of kin/families were supplied with Executive Summary of [XXREDCATEDXX]?
4. Please tell me if an outbreak happened on a hospital ward and then another outbreak happened in that same ward at a later time, was the new outbreak investigated? Or, was no new investigation done (and no new investigation report made) as the ward had already had an investigation and report done for an earlier outbreak? For example, Castle Ward had separate outbreaks in October and December, but the report you sent only covers the October outbreak and does not mention to the outbreak in December. The same is true of Emmer Green ward (amongst others) with separate outbreaks in October and December, but no mention of the December outbreak in the report you sent.
5. Please let me know why does a Serious Incident report for an outbreak on Castle Ward in October 2020 have the same Serious Incident number as an outbreak in Burghfield Ward in November 2020 and for an outbreak on Victoria Ward in December 2020 (for example)? Why do separate outbreaks, in separate months, in

separate wards have the same Serious Incident number?

6. Please give a complete list of where each of the Serious Incidents (the reports of which you have previously sent me) were reported to - for example NRLS, DATIX etc.?"

6. The Trust did not acknowledge the request. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 6 July 2022 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 FOIA.

Reasons for decision

9. Section 1(1) of 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 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 13 July 2022, 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. The Trust has acknowledged to the Commissioner that it received the request but has advised that the response has not yet been finalised.

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 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 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF