

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 December 2022

**Public Authority:** Sandwell and West Birmingham NHS Trust

**Address:** City Hospital  
Dudley Road  
Birmingham  
B18 &QH

#### **Decision (including any steps ordered)**

---

1. The complainant requested information about Dignity at Work complaints. By the date of this notice, Sandwell and West Birmingham NHS 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 12 September 2022, the complainant wrote to the Trust and requested information in the following terms:

“Under the Freedom of Information Act 2000, I would like to request the following data.

For the financial years (01 April - 31 March) 2018/19, 2019/20, 2020/21,2021/22:

1. How many Dignity at Work Complaints did SWBH receive from SWBH employees against their immediate line manager?
  2. How many of these Dignity at Work Complaints were resolved within 8 weeks (%) and what was the mean (including range) of completion timeframes?
  3. How many of the submitted Dignity at Work Complaints were made by Trust employees who were at the time of their complaint being submitted being managed under either Attendance at Work or Performance Capability Policies?
  4. What was the breakdown of the outcomes for these complaints?”
6. The Trust acknowledged the request on 15 September 2022 but, to date, a substantive response has not been issued.

## Scope of the case

---

7. The complainant contacted the Commissioner on 21 November 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 28 November 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. 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 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**