

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 January 2023

Public Authority: The Royal Brompton and Harefield NHS
Foundation Trust

Address: Royal Brompton Hospital
Sydney Street
London
SW3 6NP

Decision (including any steps ordered)

1. The complainant requested information relating to fixed terms contracts for Specialist Doctors in the Paediatric Cardiology Department. By the date of this notice the Royal Brompton and Harefield 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 23 June 2022, the complainant wrote to the Trust and requested information in the following terms:

"I am writing to make a request for information under the Freedom of Information Act. Please send me:

1. A copy of all documents relating to the renewal and/or engagement of Fixed Terms Contracts for specialist Doctors in the Paediatric Cardiology Department for March 2021.
2. A copy of all documents relating to the renewal and/or engagement of Fixed Terms Contracts for Specialist Doctors in the Paediatric Cardiology Department for October 2021.
3. A copy of all documents relating to the renewal and/or engagement of Fixed Terms Contracts for Specialist Doctors in the Paediatric Cardiology Department for 2022.

I believe the request encompasses the following documents:

1. Numbers of internal applicants.
2. Numbers of external applicants.
3. The selection criteria, scoring matrix, and decision rationale for unsuccessful and successful applicants.
4. Compliance documents with the Trusts Fixed Terms Contract Guidance.
5. Emails to from or between relevant decision makers for each process discussing the above or the process in general.

If this request is too broad, please contact me. If any of this information is already in the public domain, please direct me to it."

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

Scope of the case

7. The complainant contacted the Commissioner on 15 August 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 23 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

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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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