

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

### **Decision notice**

**Date:** 16 January 2023

**Public Authority:** Royal Berkshire NHS Foundation Trust

**Address:** London Road

Reading

RG1 5AN

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

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1. The complainant has requested information from Royal Berkshire NHS Foundation Trust ('the Trust') in relation to cases of bullying and harassment, referrals to the GMC and the job description of specific roles. The trust refused to comply with the requests, citing section 14 of FOIA.
2. The Commissioner's decision is that the trust is entitled to refuse to comply with the requests under section 14(1) of FOIA because the requests are vexatious. He does not require any further action to be taken.

### **Request and response**

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3. The complainant has made a number of subject access requests under the Data Protection Act (DPA) and FOIA requests to the Trust. This notice addresses the following requests (the date they were submitted to the Trust is at the end of each):
  - i. "Cases of bullying or harassment reported against medical managers at the Trust (11 April 2022);
  - ii. Referrals to the GMC (11 April 2022);

- iii. The number of consultants ineligible for employment with the Trust due to a lack of GMC registration (11 April 2022);
- iv. iv. The job description for the Trauma and Orthopaedic Clinical Director (14 April 2022);
- v. v. The job description for the Medical Director (14 April 2022);
- vi. vi. The job description for the Deputy Director of Workforce (14 April 2022);
- vii. vii. The job description for the Planned Care Group Director (14 April 2022)
- viii. viii. Complaints raised by Trust employees against other Trust employees in relation to bullying and harassment (21 May 2022)."

(Description of the request taken from the Trust's internal review response dated June 2022).

4. The Trust responded to these requests, refusing to comply under section 14 of FOIA. Specific date unknown.
5. An internal review was carried out in June 2022 (more specific date unknown) upholding the application of section 14 to the above requests.

### **Scope of the case**

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6. The Commissioner has not sought further information from the Trust. He is satisfied that section 14 of FOIA applies based on the submissions put together in the internal review response. The following section will now explain the Commissioner's decision in more detail.

### **Reasons for decision**

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1. Section 14(1) of FOIA entitles a public authority to refuse to comply with a request if it considers that request to be vexatious.
2. The position of the Trust is that it considers the requests to be vexatious and designed to cause a disproportionate and unjustifiable level of distress, disruption and irritation. It also considers the requests to be an inappropriate and an improper use of a formal procedure when there are other mechanisms available to the complainant to pursue their concerns. It makes reference to ongoing legal proceedings involving the complainant and the Trust and the ability to be provided with all relevant information to those proceedings as part of that process.

3. Between 9 January 2019 and 19 May 2022 the Trust has received 4 subject access requests, 20 FOIA requests and 13 internal review requests from the complainant and been involved in four separate ICO complaints. In addition to this, there have been various and substantial other enquiries from the complainant, including follow up queries in relation to their requests. From 11 April 2022 to the date of the internal review response the Trust received eight FOIA requests from the complainant.
4. It stated that it has tried to accommodate and provide the information the complainant has asked for. However, their continuing correspondence and requests is now placing a considerable burden on the financial and human resources of the Trust. It said that it has invested 93 hours and 45 minutes into requests and queries received and provided a breakdown of this time per type of request and enquiry in its internal review to the complainant.
5. It stated it cannot continue to divert valuable resources to the complainant's behaviour of submitting request after request, enquiry after enquiry and has now placed the complainant on restricted contact.
6. The Commissioner accepts that the complainant is currently in legal proceedings with the Trust and considers additional information is required to assist with that process. However, such requests and correspondence needs to be proportionate and not place an overwhelming burden on the Trust in terms of time and expense. He considers the complainant is already within a statutory process to address their underlying issues and time and resources would now be best directed to those proceedings and the other public functions the Trust must fulfil.
7. It is apparent that the complainant has submitted a considerable number of requests both under the DPA and FOIA, in addition to other correspondence and enquiries. The Trust has documented that it has already spent over 93 hours addressing the complainant's requests, complaints to the ICO and enquiries. The Commissioner considers this is substantial and the complainant's continuing behaviour is now placing an unjustifiable burden on the Trust. For these reasons the Commissioner is satisfied that section 14(1) of FOIA does apply to these requests.

## **Other matters**

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8. The Commissioner notes that the refusal notice and internal review are not fully dated. Both just confirm the date and month they were issued. The Commissioner would like to request that the Trust puts the full date of its responses to applicants in the responses it issues. This is required to know precisely when responses were provided and whether these were within the specified timeframes outlined in FOIA and the Section 45 Code of Practice.

## Right of appeal

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9. 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)

10. 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.
11. 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

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**