

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 May 2023

Public Authority: Chelsea and Westminster Hospital NHS Foundation Trust

Address: Chelsea and Westminster Hospital
Unit 111
Harbour Yard
Chelsea Harbour
London
SW10 0XD

Decision (including any steps ordered)

1. The complainant requested information about the removal of an art display at the hospital. By the date of this notice, Chelsea and Westminster Hospital 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 3 March 2023, the complainant wrote to the Trust and requested information in the following terms:

"We write concerning the Chelsea and Westminster Hospital's ("the Hospital") decision to remove the Crossing Borders – A Festival of Plates ("the art display") from the hospital, as recently reported.

[...]

Therefore, we request the following information under s 1 of the Freedom of Information Act 2000:

- 1) When was the decision made to remove the art display?
- 2) On what date was the art display taken down?
- 3) Who made the decision to remove the art display? Is that decision-maker an employee or agent of the Hospital? If so, what is their legal relationship with the Hospital?
- 4) What were the reasons underpinning the decision to remove the art display?
- 5) What information and/or evidence informed the decision? Were any meetings held to discuss whether the art display should be taken down? Please provide a copy of all recorded information that informed the decision and notes from any meetings held about the decision.
- 6) How was this information and/or evidence obtained? If it was from external, third party sources, please detail which third parties provided the hospital with this information? Please provide a copy of all correspondence with third parties in relation to this decision.
- 7) Did the decision-maker consult any relevant staff members (of the Hospital or The Chelsea Community Hospital School), patients or other third parties before making the decision? If so, please identify these individuals and third parties. Please also provide a copy of all recorded information in relation to consultations with staff, patients or other third parties.
- 8) Did the Hospital consult staff, patients or members of the public of Palestinian or Arab-descent prior to making the decision to remove the art display? Please provide all recorded information of such consultation(s).

- 9) Did the Hospital consult patients or members of the public from any other group of people they deemed may have been impacted prior to making the decision to remove the art display? Please provide all documented information of such consultation(s) and the Hospital's rationale for believing these groups were so impacted.
- 10) Did the Hospital consult the curator of the art display and/or children involved in making the display? Please provide all recorded information of such consultation(s).
- 11) Did the Hospital conduct an equality impact assessment, or its equivalent, prior to the removal of the art display? If so, who conducted the assessment? Please provide a copy of the assessment and all documents on which the assessment was based."
6. The trust acknowledged the request on 3 March 2023. To date, a substantive response has not been issued.

Reasons for decision

7. 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."
8. 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".
9. On 11 April 2023 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.
10. Despite this intervention, the Trust has failed to respond to the complainant.
11. 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

12. 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

13. 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.
14. 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