

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 July 2023

Public Authority: South East Coast Ambulance Service NHS Foundation Trust

Address: Nexus House
Gatwick Road
Crawley
West Sussex
RH10 9BG

Decision (including any steps ordered)

1. The complainant requested data about hospital transfers.
2. The Commissioner's decision is that the above public authority ("the public authority") failed to respond to the request within 20 working days and has therefore breached section 10 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under FOIA, to the request.
4. The public authority must take these steps 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 the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 23 January 2023, the complainant wrote to the public authority and requested information in the following terms:

"How many SI patients deceased have they been [sic] in emergency ambulances due to (Transfer Delay/Failure. In Oct 2017-March 2018, April 2018-Sept 2018. October 2018-March 2019.

6. On 24 January 2023, the public authority acknowledged the request, but asked the complainant to clarify what "SI" stood for in this context.

7. On 26 January 2023, the complainant wrote to the public authority and requested information in the following terms:

"How many deaths in Emergency Ambulances in the South East Coast Ambulance Service NHS Foundation Trust. In your area. Oct 2017-March 2018, April 2018-Sept 2018. October 2018-March 2019. Serious Incident Investigations due to Transfer-Delay/Failure of no emergency help forthcoming from A/E EMERGENCY [sic]."

8. The public authority acknowledged the request again on 27 January 2023 and asked the complainant to clarify whether the second part of his request referred to transfers to hospitals or between hospitals.

9. On 30 January 2023, the complainant contacted the public authority a third time to say that:

"I mean. Transfere[sic]/Delay/Failure A/E patients in ambulances deceased due to failure of Emergency Treatment not available."

10. The public authority did not acknowledge this piece of correspondence and had failed to provide a substantive response by the date of this notice – despite a reminder from the Commissioner.

Reasons for decision

11. The Commissioner considers that the request in question constituted a valid request for recorded information under FOIA.

12. A public authority is entitled to ask a requester to clarify their request if that is necessary in order for the correct information to be identified. The Commissioner does not consider that it was unreasonable for the public authority to have sought clarification (on either occasion) and he notes that it did so promptly.

13. However, once a requester has clarified their request, the public authority must then either process the clarified request in accordance with FOIA or seek further clarification of the request. In this case, the public authority appears to have done neither – despite the Commissioner's intervention.
14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the public authority has breached section 10 of FOIA and it must now issue a substantive response within 35 calendar days.

Right of appeal

15. 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

16. 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.
17. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF