

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 September 2021

Public Authority: Royal Berkshire NHS Trust
Address: London Road
Reading
RG1 5AN
LS2 7UE

Decision (including any steps ordered)

1. The complainant requested information from Royal Berkshire NHS Trust ("the Trust") about patients who presented at the emergency department and were not screened for Covid-19 at booking.
2. The Commissioner's decision is that the Trust breached section 10(1) of the FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days. No steps are required.

Request and response

3. On 21 July 2021, the complainant wrote to the Trust via the WhatDoTheyKnow website and requested information in the following terms:

"The Care Quality Commission Report on Royal Berkshire Hospital July 2021 says regarding Covid-19 testing that "Patients who presented in the emergency department were not screened at booking..." and "this meant newly presenting patients were waiting with other patients and their COVID-19 status was unknown." This was reported to still be occurring as of 29 April 2021, when the CQC inspection took place.

Please can you provide me with the following information:

- 1. Up until April 29 2021, as no Covid-19 screening took place on patients on arrival to the emergency department, when were they given their first Covid-19 test, is it when they were admitted to a ward or some other time?*
- 2. Up until April 29 2021, what is the longest time a patient might wait between arrival at A&E/Emergency Department and being admitted to a ward before they receive their first Covid-19 test? Presumably, Covid-19 negative patients would be kept with Covid-19 positive patients for a considerable time under certain circumstances?*
- 3. Up until April 29 2021, given the findings listed in the CQC report, how did you know that Covid-19 positive patients were not together with Covid-19 negative patients in the emergency department?*
- 4. What, if any, measures were taken to prevent cross contamination?*
- 5. As no Covid-19 screening took place on patients on arrival to the emergency department, how patients many went on to develop nosocomial Covid-19?*
- 6. As no Covid-19 screening took place on patients on arrival to the emergency department, how many further infections did this plan of action lead to?*
- 7. Of the patients that arrived to the emergency department, were not screened for Covid-19 and were not admitted, how many later returned to the hospital with Covid-19?*
- 8. Of those patients (as listed in the question directly above) how many did you consider to have nosocomial Covid-19 based on them previously being in the emergency department without screening?*
- 9. Of those patients who arrived to the emergency department,*

were not screened, and subsequently returned to the hospital and found to be Covid-19 positive, how many died with Covid-19?"

4. The Trust wrote to the complainant to acknowledge the request on 21 July 2021.
5. The complainant wrote to the Trust for an update on their request on 23 August 2021.
6. The Trust wrote to the complainant on 24 August 2021 saying it had no record of the request. The complainant responded to the Trust on the same day with evidence of the request acknowledgement of 21 July 2021.
7. The Trust wrote to the complainant on 25 August 2021 requesting clarification of the request and the complainant provided this on the same day. A clarified request is classed as a new request under the FOIA and therefore this triggered a new 20 working day time limit for the Trust to provide a response. The clarified request is outside the scope of this notice as, at the time of issuing this decision notice, the time limit for the Trust to provide a response had not been exhausted.

Scope of the case

8. The complainant contacted the Commissioner on 23 August 2021 to complain about the Trust's failure to respond to the request.
9. The Commissioner has considered whether the Trust has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

10. Section 1(1) of the 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.*

11. Section 10(1) of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
12. 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 the FOIA. The Commissioner finds that the Trust has breached section 10(1) by failing to respond to the request within 20 working days. This also applies to requests for clarification; if a public authority needs to clarify a request this must be done within 20 working days.

Right of appeal

13. 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

14. 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.
15. 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