

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2022

Public Authority: Tees, Esk and Wear Valleys NHS Foundation Trust

Address: Trust Headquarters
West Park Hospital
Edward Pease Way
Darlington
Durham
DL2 2TS

Decision (including any steps ordered)

1. The complainant requested information from Tees, Esk and Wear Valleys NHS Foundation Trust ("the Trust") relating to reports following the death of [redacted]. By the date of this notice 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 24 May 2022, the complainant wrote to the Trust and requested information in the following terms:

“Please provide a copy of:

(a) The letter written to the Trust by the Coroner in the case of [redacted] deceased at or around the same time as the issuing of a Reg28 Notice following the Inquest Hearing in April 2022.

(b) The Conclusions and Recommendations (in full) of an independent Serious Incident Report commissioned in late 2020 following the death of [redacted].

(c) The Conclusions and Action Plan produced by the Trust in either late 2020 or early 2021 in response to this Serious Incident Report and the events surrounding her death.

Reference was made to all such document by the Coroner during the Inquest Hearing held in Open Court in April 2022 in the presence of the general public and press.”

6. The Trust acknowledged the request on 6 June 2022. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 24 June 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 29 June 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF