

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2022

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

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

Decision (including any steps ordered)

1. The complainant requested a copy of a "Response to the Notice to Prevent Future Deaths Report". As of the date of this notice, Tees, Esk and Wear Valleys 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 as it failing 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 26 June 2022, the complainant made the following request for information to the Trust:

"Please provide a copy of your Response to the Notice to Prevent Future Deaths Report (ref: [reference number redacted] date [date redacted] made by Assistant Coroner [name redacted] in the case of [name redacted] deceased, addressed to you and three others."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 5 September 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 10 September 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF