

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 13 July 2023

**Public Authority:** Epsom and St Helier University Hospitals NHS Trust

**Address:** St Helier Hospital  
Wrythe Lane  
Carshalton  
Surrey  
SM5 1AA

### **Decision**

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1. The complainant requested information from Epsom and St Helier University Hospitals NHS Trust ("the Trust") relating to its zero-tolerance policy and documentation referenced within the policy.
2. The Commissioner's decision is the Trust failed to provide an adequate response to the request as it responded to the first part, however it failed to respond to the second part. Consequently the Commissioner finds that the Trust breached section 1(1) and section 10(1) of the FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
  - The Trust must issue a fresh response to the second part of the complainant's request which is adequate for the purposes of FOIA.
4. The Trust 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. The complainant made the following information request to the Trust on 29 March 2023:-

“Please send me the zero-tolerance policy (or its equivalent) together with all appendices and any documents referenced in this policy which are not publicly accessible from the internet.”
6. On 14 April 2023 the Trust sent the complainant the zero-tolerance policy, however it failed to reference the second part of the complainant’s request. The complainant chased this up with the Trust on 18 and 27 April 2023.
7. On 2 May 2023 the complainant wrote to the Trust listing all the documents they were requesting in the second part of their request. On 3 June 2023 the Trust acknowledged receipt of this. They have not yet received a further response from the Trust despite several further correspondences and telephone calls.

## Reasons for decision

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8. This reasoning covers whether the Trust has complied with its obligations under section 1(1) (general right of access to information) and section 10(1) (time for compliance) of FOIA.
9. The Trust has provided the complainant with the information requested in the first part of their request, failing to address the second part of the request.
10. The complainant considers that the Trust has not fully responded to their request as it has not answered the second part.
11. The Commissioner’s decision is that the Trust has failed to provide the complainant with an adequate response to their request and, therefore, the Trust has breached section 1(1) (general right of access to information) and section 10(1) (time for compliance) of FOIA.
12. The Commissioner requires the Trust to provide the complainant with a fresh response, fully answering the second part of their request. The Trust should either provide the complainant with the requested information or issue an adequate refusal notice.

## Right of appeal

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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: 0300 1234504

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**