

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2016

Public Authority: NHS Trust Development Authority
Address: Southside
105 Victoria Street
London
SW1E 6QT

Decision (including any steps ordered)

1. The complainant has requested information relating to the Scott Moncrieff report into Royal Wolverhampton Hospitals.
2. The Commissioner's decision is that in failing to respond to this request NHS Trust Development Authority (NHS TDA) has breached section 10(1) of the FOIA.
3. The Commissioner requires NHS TDA to take the following steps to ensure compliance with the legislation.
 - Provide a substantive response to the request in accordance with FOIA
4. NHS TDA 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 27 October 2015, the complainant wrote to NHS TDA and requested information in the following terms:

"Can I request, using the freedom of information act, a copy of the Scott Moncrieff report into Royal Wolverhampton Hospitals which I understand was completed in or around September 2014."

Can I also request any correspondence regarding this report between the NHS TDA and the Department of Health using the Freedom of Information Act.

Can I request, using the Freedom of Information Act any communications between the NHS TDA and the Royal Wolverhampton Hospitals regarding this report."

6. NHS TDA acknowledged the request on 12 November 2015.
7. The Commissioner contacted NHS TDA on 6 January 2016 and asked it to provide a full response to the request within 10 working days. NHS TDA wrote to the complainant on 25 January 2016 and stated it was still not in a position to respond as it was having difficulties in locating all the requested information at parts 2 and 3 of the request and suggested the report itself was intended for future publication. However, by the date of this notice NHS TDA had failed to provide a substantive response to this request.

Scope of the case

8. The complainant contacted the Commissioner on 5 January 2016 to complain about the way his request for information had been handled.

Reasons for decision

Sections 1 and 10

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. Section 10(1) of the 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".
10. In this case NHS TDA has breached section 10(1) of FOIA by failing to respond substantively to the request within 20 working days.
11. The Commissioner's decision is that NHS TDA did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 3 above NHS TDA is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

12. As well as issuing this notice, the Commissioner has made a separate record of the failure by the NHS TDA to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

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