

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2016

Public Authority: University Hospitals Coventry and Warwickshire
NHS Trust

Address: Walsgrave Hospital
Clifford Bridge Road
Coventry
CV2 2DX

Decision (including any steps ordered)

1. The complainant has requested information concerning the management of a medical physics department within University Hospitals Coventry and Warwickshire NHS Trust ('the Trust').
2. The Commissioner's decision is that the Trust has breached section 10(1) of the FOIA because it has not provided the complainant with a response to her request within 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a response to the FOIA elements of her information request of 8 December 2015.
4. The public authority 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 8 December 2015, the complainant wrote to the Trust and requested information in the following terms:

"...I would request that you provide me with copies of the following documents:

- *[First Named Doctor's] job description in May 2012 and October 2013 referred to by [Second Named Doctor]*
 - *The email referenced in second appeal hearing by [Individual 1] from [Individual 2] to [Third Named Doctor] management team about [Third Named Doctor] letter of complaint.*
 - *The record of complaints made by staff about [First Named Doctor's] behaviour kept by [Individual 3].*
 - *All correspondence from University Hospital Birmingham about [First Named Doctor's] appointment as [Job Title].*
 - *All correspondence between HR and [First Named Doctor] and/or [Second Named Doctor] and/or [Professor 1].*
 - *The Electronic Staff Record (ESR) records of the managers for [Individual 4], [Individual 5], [Individual 6], [Individual 7], [First Named Doctor] and [Individual 8] from 2011 to 2013.*
 - *All records of the management structure of Radiotherapy Physics between 2011 and 2013.*
 - *The record of access to [Individual 4's] images on the picture archive system (PACS) in 2013.*
 - *The record of access to [Individual 5's] images on PACS in 2013.*
 - *All correspondence since October 2015 between the appeal panel and [First Named Doctor] about [Individual 1's] email to [First Named Doctor] in August 2015 saying I have called him racist and sexist.*
6. The Trust did not provide a response and the matter was passed to the Commissioner.
7. The Commissioner wrote to the Trust on 5 March 2016 and asked it to provide the complainant with a response within 10 working days. In a subsequent conversation with the Commissioner on 10 March 2016 the Trust explained that it was handling the request as both a request for information under the FOIA and as a subject access request under the Data Protection Act. At the date of this notice, the Trust has not responded to any FOI elements of the complainant's request.

Scope of the case

8. The complainant contacted the Commissioner on 24 February 2016 to complain that she had not received a response to her request.
9. The Commissioner has focussed his investigation on whether the Trust has breached section 10(1) with regard to elements of the request that fall under the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA says that anyone who submits a request for information to a public authority is entitled to be told whether the authority holds the information and, if it does, to have that information communicated to him or her.
11. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) within 20 working days.
12. In this case, the complainant submitted her request to the Trust on 8 December 2015. A response to any FOI elements of the request was due by Friday 8 January 2016. To date the Trust has not provided a response, which is a clear breach of section 10(1).

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
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