

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 April 2017

Public Authority: East London NHS Foundation Trust
Address: 9 Alie Street
London E1 8DE

Decision (including any steps ordered)

1. The complainant has requested guidance and codes of conduct concerning doctors' care of their patients. East London NHS Foundation Trust ('the Trust') has not responded to the request.
2. The Commissioner's decision is that the Trust has breached section 10(1) of the FOIA because it has not complied with section 1(1) within 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Provide a response to the complainant's request of 8 July 2016.
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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 8 July 2016, the complainant wrote to the Trust and requested information in the following terms:

"1. The exact source of guidance and codes of conduct that staff (e.g. doctors must follow with regards to the care of a patient. For example

this may be the GMC codes of conduct (Good Medical Practice (2013), NICE guidelines, Good Medical Practice framework.

2. The exact source of guidance and codes of conduct that staff must follow with regards to patient confidentiality, information sharing, disclosure, data processing and record keeping. For example ICO requirements, NHS department of health codes of practice, HSCIC?

3. The exact guidance and codes of conduct a Psychiatrist must follow in order to make a diagnosis (particularly in relation to personality disorders), such as Personality Assessment Schedule (PAS) tests (PAS-Q) score sheets, supporting evidence, observation records, consent forms; ICD-10 diagnosis tests; DSM diagnosis tests; validation of diagnosis; required conditions for comorbidity and coexistence of multiple diagnoses.

4. Do these codes apply to doctors and psychiatrists and also student doctors?

5. Do psychiatrists need also to comply to other codes of conduct such as those specified by the Royal College of Psychiatrists?

6. Is the guidance different for nurses, and if so what is it?

7. Are all doctors part of the revalidation system?"

6. The Trust did not respond to this request. The Commissioner wrote to the Trust on 7 December 2016 and instructed the Trust to provide a response within 10 working days. On 23 December 2016, the complainant advised the Commissioner that he had not received a response.

Scope of the case

7. The complainant contacted the Commissioner on 15 November 2016 to complain about the way the Trust had handled his personal data under the Data Protection Act (DPA). Appropriate DPA cases were set up to deal with these complaints. During this process it became apparent that the Trust had not responded to the request that is the subject of this notice, which should be handled under the FOIA rather than the DPA.
8. The Commissioner's investigation has focussed on whether the Trust has complied with its obligation under section 10(1) of the FOIA with regard to this request.

Reasons for decision

9. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled (a) to be told if the authority holds the information and (b) to have the information communicated to him or her if it is held.
10. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt.
11. In this case, the complainant submitted his request to the Trust on 8 July 2016, had not received a response by 23 December 2016 and, as far as the Commissioner is aware, is yet to receive one. This is a clear breach of section 10(1).

Right of appeal

12. 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

13. 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.
14. 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