

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 July 2022

Public Authority: Black Country Healthcare NHS Foundation Trust
Address: Trafalgar House
2nd Floor
47-49 King Street
Dudley
West Midlands
DY2 8PS

Decision (including any steps ordered)

1. The complainant has requested information relating to spending for translation and interpretation services.
2. The Commissioner's decision is that the Trust failed to respond to the request for information within 20 working days and therefore breached section 10 (time for compliance with the request) of FOIA.
3. The Commissioner is satisfied that the request has now been responded to.
4. The Commissioner does not require the Trust to take any further steps.

Request and response

5. On 7 February 2021 the complainant wrote to the Trust and requested the following information:

"1. The spending per financial year on translation services (written) and interpreting services (oral) for your organisation over each of the following 5 financial years: 2015/2016, 2016/2017, 2017/2018, 2018/2019, 2019/2020, as well as the languages involved. Please do not include data regarding the spending on services for the deaf and blind (such as sign language interpreting or Braille).

2. The total budget for your organisation for each of the 5 financial years the information above is provided on, for all expenses not just for translation and interpreting services, i.e. to include all expenses such as salaries, utilities, equipment, consumables etc., with only the total figure given, no breakdown necessary. For example, I assume the total budget would be a few dozen or hundred million pounds per financial year. This is so that I can calculate the translation and interpreting spending as a percentage of the organisation's total budget (which I suspect would be around or under 0.1%)."
6. The Trust responded on 25 May 2021 and disclosed information in response to the request.
 7. On 2 June 2021 the complainant asked for some clarity regarding the information that had been disclosed.
 8. The complainant chased the Trust for a response on several occasions before explicitly requesting an internal review on 6 July 2021.
 9. On 13 July 2021 the Trust provided some clarification in response to the information disclosed. However, the complainant still had concerns that some information had not been disclosed.
 10. The complainant continued to chase this matter on several occasions before writing to the Chief Executive of the Trust on 2 November 2021.

Scope of the case

11. The complainant contacted the Commissioner on 16 November 2021 to complain about the way that their request for information had been handled.
12. The complainant raised concerns regarding the Trust's handling of the request, specifically the timeliness of the response and internal review and information which the complainant believed was still outstanding.
13. The Commissioner considers the scope of his investigation to be to determine if the Trust complied with section 10 of FOIA. He will also consider the Trust's general handling of the request in the 'Other Matters' portion of this decision notice.

Reasons for decision

Section 10 – time for compliance

14. Section 1(1) (general right of access to information held by public authorities) states:

"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."

15. Section 10 of FOIA states:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

16. The request was made on 7 February 2021 and therefore all disclosable information should have been provided to the complainant no later than 5 March 2021.
17. The Trust however did not offer its first disclosure until 25 May 2021 and then disclosed further information after this date.
18. The Commissioner's decision therefore is that the Trust has breached section 10(1) of FOIA in its handling of this request.
19. In line with established processes, the Commissioner contacted the Trust on 24 November 2021 and instructed it to provide its internal review decision within 10 working days.
20. On 2 December 2021 the Trust provided the outcome to its internal review. It explained that it did not hold any further data that fell within the scope of the request.
21. The complainant remained dissatisfied and on 12 December 2021, asked both the Commissioner and the Trust to look at this matter further.
22. On 15 March 2021 the Trust returned to the complainant again and provided further clarity. However, the complainant expressed concerns

that the Trust had now provided inaccurate, confusing information compared to what was previously disclosed.

23. On 24 March 2021 the complainant informed the Commissioner that they had managed to obtain the outstanding information, by way of a separate request. However, they still wanted the Trust's overall handling of the request looking at, given the confusion and delays.
24. Since the complainant has now received the information, the Commissioner will not consider any further what information, that fell within the scope of the request, was, or was not, held at the time of the request.
25. Also, as the Commissioner has explained to the complainant, their concerns about the accuracy of the information provided are not ones that fall to be considered under section 50 of FOIA.

Other matters

26. There have clearly been oversights in the Trust's handling of this request, which the Commissioner accepts will have been exasperated by the Coronavirus pandemic and its impact upon the Trust's resources.
27. Internal reviews are discussed in the Section 45 Code of Practice¹ and the Commissioner considers that a reasonable time for completing an internal review is 20 working days after the date of the request for review.
28. The maximum amount of time taken should not be more than 40 working days. This longer period may be justified if an internal review is complex, requires consultation with third parties or there is a high volume of relevant information covered by the request. There will only occasionally be legitimate reasons why an extension longer than 40 working days is needed.
29. Whilst the Commissioner acknowledges that the Trust was trying to be helpful in returning to the complainant and providing clarity on several occasions, it was ambiguous as to whether this clarity represented an internal review.

¹ [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90262/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926.pdf)
(publishing.service.gov.uk)

30. Its internal review was then finally provided on 2 December 2021, after intervention from the Commissioner.
31. Had the Trust conducted its internal review sooner, or in response to any of the complainant's earlier chasers or queries, the chances of this complaint coming to the Commissioner may have been mitigated.

Right of appeal

32. 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

33. 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.
34. 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

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF