

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

### **Decision notice**

**Date:** 9 November 2022

**Public Authority:** Frimley Health NHS Foundation Trust  
**Address:** Portsmouth Road  
Camberley  
GU16 7UJ

#### **Decision (including any steps ordered)**

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1. The complainant requested a copy of the Wexham Park Hospital discharge policy. By the date of this notice Frimley Health NHS Foundation Trust had not issued a substantive response to this request.
2. The Commissioner's decision is that Frimley Health NHS Foundation Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires Frimley Health NHS Foundation Trust to take the following step to ensure compliance with the legislation.
  - Frimley Health NHS Foundation Trust must provide a substantive response to the request in accordance with its obligations under FOIA.
4. Frimley Health NHS Foundation 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 30 June 2022, the complainant wrote to Frimley Health NHS Foundation Trust and requested information in the following terms:

“Please could you email to me the Wexham Park hospital discharge policy. Thank you.”
6. The complainant wrote again on 13 July 2022 to ask for a timeline of when the request would be responded to.
7. On 18 July 2022 the complainant phoned the hospital and was told they would need to make a formal freedom of information request via Frimley Health NHS Foundation Trust’s online form on its website.
8. On 8 August the complainant submitted a formal FOI request for information via the Frimley Health NHS Foundation Trust website. The complainant received an acknowledgement and reference number on the same day. To date, a substantive response has not been issued.

## Scope of the case

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9. The complainant contacted the Commissioner on 27 September 2022 to complain about Frimley Health NHS Foundation Trust failure to respond to their request.
10. The Commissioner has considered whether Frimley Health NHS Foundation Trust has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

## Reasons for decision

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11. Section 1(1) of FOIA states that:

“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.”

12. Section 10(1) of 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”.
13. On 7 October 2022 the Commissioner wrote to Frimley Health NHS Foundation Trust reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
14. Despite this intervention Frimley Health NHS Foundation Trust has failed to respond to the complainant.
15. From the evidence provided to the Commissioner in this case, it is clear that Frimley Health NHS Foundation Trust did not deal with the request for information in accordance with FOIA. The Commissioner finds that Frimley Health NHS Foundation Trust has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.
16. The Commissioner also reminds Frimley Health NHS Foundation Trust that it cannot specify the means by which a request must be made. It cannot insist that requesters submit requests via an online portal. Any request sent to a valid public authority address should be responded to in accordance with FOIA.

## Right of appeal

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17. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatorychamber](http://www.justice.gov.uk/tribunals/general-regulatorychamber)

18. 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.
19. 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 .....**

**Michael Lea Team Manager**

**Information Commissioner's Office**

**Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF**