

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 December 2022

Public Authority: Imperial College Healthcare NHS Trust

Address: St Mary's Hospital
South Wharf Road
London
W2 1NY

Decision (including any steps ordered)

1. The complainant has requested information about disaster response plans. The above public authority ("the public authority") provided some information, but the complainant considers more is held.
2. The Commissioner's decision is that the public authority has complied with its obligations under section 1(1) of FOIA in response to some parts of the request, but not to others.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. In respect of elements [2], [5], [8], [9] and [13], the public authority must, for each element:
 - Confirm explicitly whether or not it holds the requested information; and, if the information is held:
 - Either provide a copy of that information or issue a refusal notice that complies with section 17 of FOIA.
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 24 July 2022, the complainant wrote to the public authority and made a 13-part request for information (see annex).
6. The public authority responded on 22 August 2022. To each element, it provided one of three answers: "yes"; "All plans are available on the Trust intranet; physically in the major incident cupboards; and held locally as appropriate"; or "All plans are up to date in line with NHS England EPRR Framework."
7. The complainant sought an internal review on 23 August 2022. He considered that the elements of his request that had received one of the latter two answers had not been properly responded to. Despite the Commissioner's intervention, the public authority had failed to complete its internal review at the date of this notice.

Reasons for decision

8. When a public authority receives a request for information it has two obligations under section 1(1) of FOIA: firstly it must explicitly confirm or deny whether it holds the information in question. Secondly, if it does hold that information, it must either provide a copy to the requester or issue a refusal notice. If it receives a request that contains multiple elements, its response must be clear about which information it holds and which it does not.
9. Elements [2], [5], [8], [9] and [13] of the request seek specific information. It is not sufficient for the public authority to simply state that it is complying with appropriate guidance to meet its FOIA obligations. It must state whether it holds each piece of information and then either provide that information or explain why it cannot. As the public authority has not done so, it has not complied with section 1(1) of FOIA.
10. As the public authority has not dealt with these elements properly, it must now do so again: this time addressing each element individually, providing a confirmation or a denial that the information is held and providing the information where appropriate.
11. In respect of elements [1], [4] and [12], the public authority has explained that the plans can be accessed from major incident cupboards and on the staff intranet. In the Commissioner's view stating where plans can be found is the same as explaining how they can be accessed. He therefore takes the view that the public authority has provided the information it holds in respect of these elements of the request.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

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

Annex

15. The request submitted on 24 July 2022 was as follows:

"Under the provisions of the Freedom of Information Act 2000, I am writing to request the following information. This information relates to the NHS England Emergency Preparedness, Resilience and Response Framework in general and section 10, 'Cycle of preparedness', subsection 2, 'Planning', and subsection 4, 'Exercising', and section 12, 'Incident Response', in particular...

"Hospital emergency and disaster response and recovery planning

"Hospital emergency or disaster response plan

[1] How the plan(s) is to be accessed in an emergency. (Can be answered with locations in general terms such as wards, departments, laboratories etc but I am not requesting any information that would prejudice security or the prevention of crime.)

[2] The date(s) of the most recent review(s) or update(s) of the plan(s). (Can be answered with a date or dates.)

"Hospital hazard-specific subplans (for example CBRN)

[3] Any record of the existence of current documented hazard-specific response subplans for the most likely external and internal emergency scenarios. (Can be answered yes / no.)

[4] How the subplans are to be accessed in an emergency. (Can be answered with locations in general terms such as wards, departments, laboratories etc but I am not requesting any information that would prejudice security or the prevention of crime.)

[5] The date(s) of the most recent review(s) or update(s) of the plan(s). (Can be answered with a date or dates.)

"Procedures to activate and deactivate plans

[6] Any record of the existence of current procedures for when, how and by whom emergency response plan(s) are activated and de-activated. (Can be answered yes / no.)

[7] Any record that staff who can activate or de-activate the emergency response plan(s) have been trained in this. (Can be answered yes / no.)

- [8] The date(s) of the most recent test(s) of the above procedures.
(Can be answered with a date or dates.)

"Hospital emergency and disaster response plan exercises, evaluation and corrective actions

- [9] The date(s) of the most recent test(s) of the emergency response plan(s), including date(s) of test(s). (Can be answered with a date or dates.)

- [10] Any record that the emergency response plan(s) have been updated because of the results of tests. (Can be answered yes / no.)

"Hospital recovery plan

- [11] Any record of the existence of a current documented all-hazards hospital recovery plan or plans that define(s) actions to be taken to recover normal functions of the hospital after an emergency or disaster. (Can be answered yes / no.)

- [12] Any record of how the plan(s) is to be accessed.

- [13] The date of the most recent review(s) or update(s) of the plan(s). (Can be answered with a date or dates.)"