

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 February 2023

Public Authority: Liverpool University Hospitals NHS Foundation Trust

Address: FOIRequests@liverpoolft.nhs.uk

Decision (including any steps ordered)

1. The complainant submitted a request to Liverpool University Hospitals NHS Foundation Trust ("the Trust") for documentation relating to Liverpool University's ("the university") interest in Duncan House.
2. The Commissioner's decision is that the Trust breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory timeframe of 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. Following a previous FOI request (FOI 8300) the complainant wrote to the Trust on 13 August and requested information in the following terms:

"Thank you for your reply; matters arising from this.

You claim that there are no details re. a map etc/ for the Duncan building - so you came to an agreement with Liverpool University without knowing/establishing what the actual area you were

agreeing upon was/is? This sounds unlikely - I challenge this. Does neither party have arrangements to secure documentation for land, property and long-term agreements - this seems unlikely? I point out that the rental agreement you sent me otherwise appears incomplete.

I also wish to establish how the value for the settlement of the final figure was agreed - if there's not [sic] further information in the invoices there must be some documentation supporting how that figure was reached.

To be clear I am requesting documentation that supports the value of the transfer figure re. the Duncan Building; thanks.

Finally, VAT - to be clear the Trust is not aware of any VAT charges connected to the invoices re. the Duncan building agreement/invoices?"

6. The Trust responded on 18 August 2022, referring to their response to FOI 8300 and advised the complainant to raise their concerns with the Commissioner or submit a new request.

Scope of the case

7. The complainant contacted the Commissioner on 18 August 2022 to complain about the way his request for information had been handled. The complainant explained to the Commissioner that they made a request for additional information, following a previous FOI request and internal review, but the Trust had failed to respond.
8. The Commissioner has considered whether the Trust has complied with its obligations un relation to the time for compliance at section10(1) of FOIA.

Reasons for decision

9. 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."

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".

10. From the evidence provided to the Commissioner in this case, it is clear that the complainant is not challenging the outcome of FOI 8300 but has submitted a new request to the Trust which it has failed to comply with. The Commissioner finds that the 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.

Right of appeal

10. 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

11. 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.
12. 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

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