

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 February 2023

Public Authority: Devon Partnership NHS Trust
Address: Wonford House Hospital
Dryden Road
Exeter
EX2 5AF

Decision (including any steps ordered)

1. The Commissioner's decision is that Devon Partnership NHS Trust is entitled to refuse the complainant's request for information about the treatment of psychopathy under section 14(1) of the FOIA, as the request is vexatious.
2. The Commissioner does not require any steps.

Request and response

3. On 26 July 2022, the complainant wrote to the Devon Partnership NHS Trust ("the Trust") and requested information in the following terms:

"Please confirm if the treatment of Psychopathy is general or specialist?

Please confirm if a diagnosis of Psychopathy / Dissocial Personality / Antisocial Personality disorder requires registration within the 'Supervision Register'?

Please confirm what provisions are in place for the treatment of Psychopathy / Dissocial Personality / Antisocial Personality disorder?

Please confirm any statutory basis for the application of the Hare PCL:SV within Devon Partnership NHS Trust?"

Please confirm whether application of the Hare PCL:SV within Devon Partnership NHS Trust requires the consent from those whom the instrument is applied upon?"

4. The Trust responded on 16 August 2022, it refused the request under section 14(1) of the FOIA.
5. The complainant requested a review on 18 August 2022.
6. The Trust responded on 30 August 2022, and upheld its position.

Scope of the case

7. The complainant contacted the Commissioner on 22 September 2022 to complain about the way the request for information had been handled.
8. The scope of the case is to consider whether section 14(1) is applicable.

Reasons for decision

Section 14 - Vexatious

9. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
10. Access to information is an important constitutional right and so engaging section 14(1) is a high hurdle. However, the Commissioner recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
11. The themes the Commissioner considers when deciding whether a request can be categorised as vexatious are: the burden (on the public authority and its staff); the motive (of the requester); the value or serious purpose (of the request); and any harassment or distress (of and to staff). But those broad themes are not a checklist and are not exhaustive; the Commissioner takes into account all the circumstances in order to reach his decision.
12. In its response to the complainant the Trust advised:
 - In the last two years that it had received 10 requests from the complainant relating to the same topic of psychopathy treatment and consent which have all been in relation to HARE PCL:SV.

- The Trust believes that it has acted in the spirit of the FOIA and answered questions where it was able to do so. However on most occasions that the complainant has asked for responses to be reviewed, and for some requests further reviewed.
 - It stated that in these previous requests and reviews it had already provided all of the information.
 - That often the complainant's written and verbal communications with staff contained hostile language and had constituted as harassing particular staff.
13. The Trust advised the Commissioner that it had refused the request on the basis of section 14(1) because it believes it is part of a deliberate campaign against the organisation and particular staff.
14. The Trust directed the Commissioner to the decision notice IC-192649-D2Q4¹, stating that it had reapplied section 14(1) in the current request based upon the refusal notice issued in that case.
15. The Commissioner has reviewed the evidence for this case, and the details of decision notice IC-192649-D2Q4. He agrees that the position set out in that decision notice applies to this current case.
16. The Commissioner is therefore satisfied that the Trust is entitled to refuse the complainant's request under section 14(1) of FOIA as the request is vexatious.

¹ [ic-192649-d2q4.pdf \(ico.org.uk\)](https://ico.org.uk/decision-notice/192649-d2q4)

Right of appeal

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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

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