

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

### **Decision notice**

**Date:** 23 January 2023

**Public Authority:** Sandwell and West Birmingham Hospitals NHS Trust

**Address:** City Hospital  
Dudley Road  
Birmingham  
B18 7QH

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

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1. The complainant requested information about the NHS England Emergency Preparedness, Resilience and Response Framework. By the date of this notice Sandwell and West Birmingham Hospitals NHS Trust (the Trust) had not issued a substantive response to this request.
2. The Commissioner's decision is that the 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 the Trust to take the following step to ensure compliance with the legislation.
  - The Trust must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The 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 31 August 2022, the complainant wrote to the Trust and requested information in the following terms:

"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 8, "Statutory requirements & underpinning principles of EPRR", subsection 8, "Information sharing", subsection 9, "Legal framework, public inquiries, Coroners inquests and civil action", and section 12, "Incident response", in particular. It also relates to the Resilient Telecommunications Guidance for NHS England and the NHS in England. This information should be readily available as part of the NHS EPRR annual assurance process.

Please note that this is a different request from my previous requests: "EPRR Coordination of emergency and disaster management activities" and "EPRR Planning".

For clarity, to minimise the cost of my request and to prevent the disclosure of any sensitive information, I have enumerated the information I am requesting and specified how it could be provided.

Please note that the much of the information requested is only records of the existence of training, tests, a directory, update(s), procedures, exercise(s), and resources and not the contents of the training, tests, directory, update(s), procedures, exercise(s), and resources themselves.

Given the potentially sensitive nature of this information, I ask you to redact any exempt information instead of refusing disclosure. This would be in accordance with guidance on best practice from the Information Commissioner's Office.

If you do not hold some of this information then I ask you to confirm explicitly that you do not hold it.

Communication and information management

Emergency internal and external communication

1. Any record that switchboard operators have received training in the emergency response plan(s) with regard to emergency communications. (Can be answered yes / no.)
2. The date(s) of the most recent test(s) of switchboard with regard to emergency communications. (Can be answered with a date or dates.)

#### External stakeholder directory

3. Any record of the existence of a current directory of contact information of external stakeholders and emergency support services available to any Incident Coordination Centre staff, switchboard operators and other key hospital staff in an emergency. (Can be answered yes / no.)

4. Any record of when the directory was most recently updated. (Can be answered with a date or dates.)

#### Procedures for communicating with the public and media

5. Any record of the existence of current procedure(s) for communicating with the public and media in case of an emergency or disaster. (Can be answered yes / no.)

6. Any record of whether spokespersons have received specific media training. (Can be answered yes / no.)

7. The date(s) of the most recent exercise(s) to test the above procedure(s). (Can be answered with a date or dates.)

#### Management of patient information

8. Any record of the existence of procedures to ensure continuity of medical record-keeping, timely access to patient data, secure storage of confidential information and back up procedures in the event of an emergency. (Can be answered yes / no.)

9. Any record of whether personnel have received training in such procedures. (Can be answered yes / no.)

10. Any record of whether resources are in place for implementation of such procedures. (Can be answered yes / no.)"

6. As of the date of this decision notice, the Trust has failed to acknowledge the request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 4 December 2022 to complain about the Trust's failure to respond to their request.

8. The Commissioner has considered whether the 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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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.”

10. 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”.

11. On 9 December 2022 the Commissioner wrote to the Trust, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.

12. Despite this intervention the Trust has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that the Trust did not deal with the request for information in accordance with FOIA. 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

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14. 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-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

15. 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.
16. 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**