

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 February 2023

Public Authority: East Kent Hospitals University NHS Foundation Trust

Address: Kent and Canterbury Hospital
Ethelbert Road
Canterbury
CT1 3NG

Decision (including any steps ordered)

1. The complainant requested information from East Kent Hospitals University NHS Foundation Trust ("the public authority"). The Commissioner's decision is that the public authority was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of FOIA. The Commissioner also finds that the public authority complied with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 2 October 2022, the complainant made the following request for information to the public authority:

"The re-admission/visit rate of patients within 24 and 48 hours after visiting the QEQM Accident and Emergency Department, what is the number of patients that are seen and have to revisit due to no improvement or wrong diagnosis in the A&E department in 2021 and 2022 to date?"

How many Dr's, Nurses and any other clinical staff are working at the QEQM accident and emergency department during a shift? And does this differ at different times of the day or week? I would request this data for 2021 and 2022 to date

How many claims for clinical negligence have been raised against the QEQM accident and emergency department in 2021 and 2022 to date?

How many patients have subsequently died after re-admission within 48hours to the QEQM accident department in 2021 and 2022 to date?

How many patients have subsequently been admitted to ward after their 2nd visit (within 48hours) to accident and emergency in 2021 and 2022 to date?"

4. The public authority refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

Section 12 – cost of compliance

5. This reasoning covers whether the public authority is correct to apply section 12(1) (cost limit) of FOIA to the request.¹ The appropriate limit² for the public authority in this case is £450.
6. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that whilst it can identify the people who reattended it could not necessarily identify the cases of reattendances where a person's condition had not improved or people who had been given an incorrect diagnosis. The public authority stated that this could only be answered following a time consuming/intensive review of patient notes around each episode.
7. The public authority explained that for the requested time period, there were 5,936 re-attendances at its Accident and Emergency Department. In order to obtain this figure, the public authority created and ran a report to generate a list at patient level and stated that this exercise

¹ <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

² <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

took 45 minutes to complete. On this basis, the public authority estimated that it would then require 17.25 hours to retrieve 5936 individual patient records and assess whether the reason for re-attendance was related to the first attendance. This equates to just ten seconds to retrieve and review each record.

8. The public authority carried out a small sampling exercise, selecting ten patient records at random and then checking four of these to estimate how long it took to identify the reason for re-attendance. The public authority added that this exercise was undertaken by a general manager in the Urgent & Emergency Services department, who noted that a review by a second clinician was not necessary for this small sample, but highlighted, however, that this would be likely to be needed for some records where there may not be a clear link between a patient's attendances. Of the four records checked, two took one and a half minutes and two took two minutes to review. If all records only took one and a half minutes to complete, overall it would be estimated to take 148.4 hours (over 6 days) to complete the work.
9. The Commissioner is satisfied that the public authority's arguments above are justified, because it has explained that it could not easily identify the specific requested reasons for readmissions without examining a large number of individual patient records. Therefore, the reasonably estimated cost for obtaining the requested information for the first question alone is clearly in excess of the cost limit.
10. The Commissioner's decision is that the public authority was correct to apply section 12(1) of FOIA to the request.

Section 16(1) – The duty to provide advice and assistance

11. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice³ in providing advice and assistance, it will have complied with section 16(1).
12. The Commissioner notes that the public authority advised the complainant that it would be able to provide general readmittance figures or that it may be able to provide a response to questions two

³ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

through five of the request within the cost limit if the complainant provided some clarification of these questions. The Commissioner is therefore satisfied that the public authority did meet its obligations under section 16 of FOIA.

Right of appeal

13. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

14. 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.
15. 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