

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 September 2018

Public Authority: Wirral University Teaching Hospital NHS
Foundation Trust

Address: Arrowe Park Hospital
Arrowe Park Road
Upton
Wirral
CH49 5PE

Decision (including any steps ordered)

1. The complainant has made a request for information relating to bullying and harassment investigations at the midwifery/women's unit at Arrowe Park Hospital since 2008. Despite the intervention of the Commissioner, Wirral University Teaching Hospital NHS Foundation Trust (the Trust) has not provided a response to the request in accordance with the FOIA.
2. The Commissioner's decision is that the Trust has breached section 10(1) of the FOIA in the handling of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Trust must provide the complainant with a response to the request in accordance with its obligations under the FOIA by either providing the requested information or issuing a valid refusal notice under section 17(1).
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 12 June 2018, the complainant wrote to the Trust and requested information in the following terms:
 - 1) *"May I please request ANY AND ALL INFORMATION regarding 'bullying and harassment' [sic] investigations, external consultations and the Midwifery/Women's Unit, Arrowe Park Hospital since 2008.*
 - 2) *ANY AND ALL INFORMATION regarding [redacted name] 'bullying and harassment'; [sic] Womens Unit at APH + her dismissal"*
6. On 5 July 2018 the Trust wrote to the complainant acknowledging receipt of the request for information.
7. On 17 July 2018 the Trust wrote to the complainant apologising for the delay. It advised the complainant that her request was currently being processed but it was waiting for information from the department supplying the response and requested more time to respond the request.
8. On 9 August 2018 the complainant wrote to the Trust and stated that she would be making a complaint to the ICO in relation to this matter.
9. To date, the complainant has not received a response to the request for information.

Scope of the case

10. The complainant contacted the Commissioner on 15 August 2018 to complain about the way her request for information had been handled.
11. The Commissioner has considered whether the Trust dealt with the request in accordance with its obligation under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

12. Section 1(1) of FOIA states any person making a request is entitled to be told whether the information they have asked for is held and, if so, to

have that information communicated to them, subject of course to the application of any exemptions that are appropriate.

13. Where a public authority is obliged to communicate the requested information, section 10 provides that a public authority must do so within twenty working days of the date the request was received.
14. The request was made on 12 June 2018, and a response is yet to be provided. The Commissioner therefore finds that the Trust breached section 10(1) of the FOIA in failing to respond to the request within 20 working days.
15. On 22 August 2018, the Commissioner wrote to the Trust advising it to respond to the request within 10 working days. She provided a copy of the request and informed the Trust to either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA. She also provided links to her guide to freedom of information and guidance issued in respect of the time in which a response to a request for information should be provided.
16. On 9 September 2018, the complainant confirmed to the Commissioner that she has still not received a response to the request.
17. To date, the Trust has not provided a response to the complainant. It is clear to the Commissioner that, in this case, the Trust has failed to respond to the request in accordance with the legislation.

Right of appeal

18. 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@hmcts.gsi.gov.uk

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

19. 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.
20. 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

Pamela Clements
Group Manager
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Wycliffe House
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Wilmslow
Cheshire
SK9 5AF