

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 June 2019

Public Authority: Belfast Health and Social Care Trust

Address: Trust Headquarters
A Floor
Belfast City Hospital
Lisburn Road
Belfast
BT9 7AB

Decision (including any steps ordered)

1. The complainant has requested information from Belfast Health and Social Care Trust ("the Trust") relating to a particular care home, Muckamore Abbey Hospital, where there had been a review into the care of vulnerable adults with learning disabilities and mental health needs.
2. The Commissioner's decision is that the Trust failed to provide a valid response to the request within the statutory time frame of 20 working days. In not doing so, the Trust breached section 10(1) of the FOIA.
3. As the information has now been provided, the Commissioner requires no steps to be taken.

Request and response

4. On 9 August 2018 the complainant wrote to the Trust about various matters of concern and made several requests which included the following:

"Also can you confirm how many proven allegations of abuse have been discovered in P.I.C.U. [Psychiatric Intensive Care Unit] since 2013."

5. There was a late response from the Trust on 19 September 2018 which, although it stated that it was a response to his FOI requests, did not respond to the specific request above.

6. On 9 October 2018 the complainant made the following information request –

"Also could you please furnish me an approved code of practise for the operation of Muckamore P.I.C.U. Seclusion room, and any information to the best practise of its use."

7. The complainant received another letter from the Trust on 17 October 2018 which responded to this email and provided a form of review of the complainant's previous requests and correspondence. However, the seclusion policy was just referred to as a matter to be reviewed at some indefinite point after considering what had already been provided to him.

8. The correspondence with the complainant has been responded to in an uncoordinated manner. This seems to have arisen because the Trust initially offered to respond to the complainant's need for information as an interested party without him having to make formal requests. As he was unable to get timely and detailed enough responses the complainant subsequently made FOI requests and data protection requests that were responded to by different individuals at the Trust, some responded to formally and some informally. The correspondence represents a frustrating series of chasers from the complainant.

9. The complainant requested an internal review on 19 December 2018.

10. On 30 January 2019 the Trust provided its internal review response which dealt with some of the complainant's outstanding requests.

Scope of the case

11. The complainant first contacted the Commissioner on 12 October 2018 to complain about the way his requests for information had been handled.
12. The Commissioner wrote to the public authority on 12 March 2019 about the piecemeal manner in which the complainant's requests had been responded to and asked the Trust questions about what was held or not held regarding the outstanding requests, having highlighted what remained (as set out in paragraphs four and six of this decision notice). These two parts of his requests were what the complainant had agreed with the Commissioner were the outstanding matters.
13. The Trust subsequently provided the complainant with the seclusion policy and the figure for proven allegations of abuse on 30 January 2019.
14. Finally, having had further communications with the Commissioner, the Trust provided other policies regarding the best practice use of the seclusion room on 28 May 2019.
15. The Commissioner considers that the only remaining matter that comes within her remit is the timeliness of the public authority's compliance with its section 1(1) duties.

Reasons for decision

16. Section 1(1) of the 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."

17. Section 10(1) of the FOIA states that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

18. The Trust breached section 10(1) of the FOIA by responding late to the complainant and disclosing information many months afterwards.

Right of appeal

19. 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

20. 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.
21. 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.....

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