

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 November 2019

Public Authority: Harrogate and District NHS Foundation Trust
Address: Lancaster Park Road
Harrogate
North Yorkshire, HG2 7SX

Decision (including any steps ordered)

1. The complainant has requested information relating to the numbers of cancelled operations. Harrogate and District NHS Foundation Trust (the Trust) failed to respond to this request for information and the Commissioner's decision is that in doing so the Trust breached section 10(1) of the FOIA. The Commissioner requires the public authority to provide the complainant with a response to this request in accordance with its obligations under FOIA.
2. 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 FOIA and may be dealt with as a contempt of court.

Request and response

3. On 6 August 2019, the complainant requested the following information:
'Under the Freedom of Information Act, I would like to request the total number of operations cancelled for non-clinical reasons, broken down by the cause of the cancellation, for example due to lack of beds, operating theatre capacity, staffing issues, and equipment failures, in 2018/19 (financial year, April to March).'

In the total number of operations, broken down by cancellation reason, please include: Elective operations cancelled at the last minute. For the

purposes of this request, last minute means on the day the patient was due to arrive, after the patient has arrived in hospital or on the day of the operation or surgery.

Cancelled urgent operations. If the data is collected by the trust, please also provide a separate total for each year for all operations cancelled for non-clinical reasons, regardless of how soon before the scheduled operation time the cancellation occurred.

Please send this information in a spreadsheet or CSV format.'

4. The Trust acknowledged the request on 14 August 2019 and allocated a reference number.

Scope of the case

5. The complainant contacted the Commissioner on 15 October 2019 to complain about the failure of the Trust to respond to this request.
6. In line with her usual practice, the Commissioner contacted the Trust on 18 October 2019 to highlight the outstanding response. She instructed the Trust to respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to. On 8 November 2019 the complainant confirmed that she had not received a response. The Commissioner wrote again to the Trust on 11 November 2019.
7. The Commissioner considers that the scope of her investigation is to determine whether the Trust has complied with Section 10 of the FOIA.

Reasons for decision

8. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
9. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
10. In this case the Trust has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

11. 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

12. 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.
13. 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
Water Lane
Wilmslow
Cheshire
SK9 5AF