

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 January 2023

Public Authority: Leeds and York Partnership NHS Foundation Trust

Address: Trust Headquarters
2150 Thorpe Park
Leeds LS15 8ZB

Decision (including any steps ordered)

1. The Commissioner is satisfied that Leeds and York Partnership NHS Foundation Trust has satisfactorily addressed the complainant's request and has complied with section 1(1) and 10(1) of FOIA.

Request and response

2. On 26 October 2022 the complainant submitted a six part request to Leeds and York Partnership NHS Foundation Trust ('the Trust') as follows:
 - "[1] What was the reason a complaint of fraud by leeds city council against the nhs by [redacted] was disregarded
 - [2] Who is covering the cost of mental health treatment suffered by [redacted] due to the fraudulent misrepresentations by leeds cc?
 - [3] Who was the guardian of conflict interest and accountable officer on the investigation into fraud by leeds city council. Please produce the conflict of interest report?
 - [4] Please provide details of the nhs fraud policy and any investigations when the named party is from a different public officer?

[5] Please provide all correspondence between Leeds CC and the NHS investigating party related to the investigation of the complaints of fraud by Leeds CC in misrepresenting to the NHS facts of a fraud and abuse complaint to Leeds CC which has now caused an unnecessary burden on the NHS including breaching NHS fraud policies.

[6] Please provide the accountable officers' reasons for the unnecessary burden caused by abuse of patients under your care and the unnecessary burden is still being covered by the public purse when the NHS fraud policy allows/requires all losses through direct or indirect fraud to be recovered immediately. Your report into this fraud and the losses estimated to be 2 million to the purse is required. Please confirm how long the public will be asked to pay for this burden."

3. In its response (reference FOI-4567) the Trust addressed questions 1, 2, 3, 5 and 6 and disclosed information within scope of question 4 - its 'Anti-Fraud, Bribery and Corruption Policy'.
4. At internal review the Trust advised the complainant that it had considered all five requests that it had received from them between the last week of October 2022 and 1 November 2022. The Trust confirmed it considered it had responded to those requests appropriately.
5. However, the Trust also advised that, "Having considered the ongoing requests, their numbers, frequency, repetitive content and resultant impact on the Trust, I am of the opinion that regarding **future similar requests** as vexatious is a reasonable view [the Commissioner's emphasis]." A public authority can refuse a request as vexatious under section 14(1) of FOIA.

Reasons for decision

6. In their complaint to the Commissioner, the complainant has discussed the Trust's reliance on section 14(1) of FOIA in relation to their request of 26 October 2022. In its submission to the Commissioner the Trust has also justified its reliance on section 14(1).
7. However, from its internal review response it appears to the Commissioner that the Trust has not applied section 14(1) of FOIA to the current request; it advised it would consider applying section 14(1) to similar requests **in the future**. The Trust provided a response to the request of 26 October 2022 (and, indeed, four previous requests). This reasoning therefore covers whether the Trust's response to the request of 26 October 2022 complied with section 1(1) and section 10(1) of FOIA.

8. Under section 1(1) of FOIA a public authority must (a) confirm whether or not it holds information that has been requested and (b) communicate that information if the authority holds it and the information is not exempt from disclosure.
9. Under section 10(1) of FOIA a public authority must comply with section 1(1) promptly and within 20 working days of the request.
10. The complainant's current request and, the Commissioner understands, their previous requests, concern an allegation of fraud against Leeds City Council. The Trust has advised the complainant previously and advised them again in its response to this request that it does not have any remit to investigate such allegations against Leeds City Council. As such, it does not hold the information requested in questions 1, 2, 3, 5, and 6 of the request.
11. The Commissioner accepts that the Trust does not hold the information requested in five parts of the request for the reason the Trust has explained; it has no remit to investigate Leeds City Council. The Commissioner has therefore decided that the Trust complied with section 1(1) of FOIA. It provided its response on 1 November 2022 and therefore also complied with section 10(1).
12. This decision has considered the Trust's compliance with section 1 and section 10 of FOIA. However, the Trust has provided the Commissioner with a background and context to the current request. It says that the complainant has been corresponding with it about a fraud allegation against Leeds City Council since 2019. As noted, the Trust has advised the complainant more than once that it is not responsible for investigating such allegations. The Trust has also advised the complainant that they should pursue their complaint against Leeds City Council through the Council's complaints process. If necessary, they can escalate it to the Local Government and Social Care Ombudsman and/or the police if they consider a crime has been committed against them. Finally, the Trust has previously advised the complainant to seek the support of independent advocacy services if they are struggling to understand the FOIA process, its limitations and the Trust's lack of remit in their case.
13. The Commissioner understands that the Trust did not apply section 14(1) to the request of 26 October 2022. It indicated that it would consider applying section 14(1) to similar requests in the future. The Commissioner notes the decision in this case, the background the Trust has provided and its previous advice to the complainant. He considers that, in the circumstances, it would be reasonable for the Trust to refuse any requests on the same matter as vexatious requests under section 14(1) if the complainant were to submit such requests in the future.

Right of appeal

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@hmcts.gsi.gov.uk
Website: 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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF