

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 July 2013

Public Authority: Norfolk and Norwich University Hospitals NHS Foundation Trust

Address: Colney Lane
Norwich
NR4 7UY

Decision (including any steps ordered)

1. The complainant made a freedom of information request to Norfolk and Norwich University Hospitals NHS Foundation Trust ("the Trust") for information regarding a partnership agreement with Spire Healthcare and a complaint he had previously made to the Trust. The Trust failed to respond to the request and therefore the Commissioner has found that it breached section 10(1) of the Act.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Trust must respond to the complainant's request of 2 May 2012 under FOIA or issue a refusal notice in accordance with section 17(1) of FOIA.
3. 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

4. On 2 May 2012 the complainant wrote to the Trust and requested information in the following terms:

- i. Copy of the NNUH or PCT partnership agreement with Spire Healthcare in effect December 2011.*
 - ii. Clarification as to whether the above has been subject to amendment since December 2011 and if so further copy of the amended version.*
 - iii. Copy of the Spire Hospital reception displayed Data Protection Statement as seen and referred to in my complaint 21 December 2011.*
 - iv. Copy of the response to the NNUH from Spire Healthcare to my complaint raised 21 December 2011.*
 - v. Copy of the NNUH Data Protection Policy and last revision date please.*
 - vi. If provision is to be delayed please kindly provide a simple list of titles as relates to the policy documents requested above for further reference.*
5. The Trust acknowledged the request on 14 May 2012 but no substantive response was received.
 6. The complainant's request was listed on the Trust's disclosure log on 25 July 2012 as still being processed.

Scope of the case

7. On 3 February 2013 the complainant contacted the Commissioner to complain about the failure of the Trust to respond to his request.
8. After receiving the complaint the Commissioner contacted the Trust to ask it to respond to the complainant's request. At the time of drafting this notice the Trust has still not responded to the request.

Reasons for decision

9. Section 1(1) of the FOIA provides 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.
10. Section 10(1) of the FOIA provides that 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.
11. In this case the complainant made his request on 2 May 2012 but the Trust has yet to respond. This amounts to a breach of section 10(1) of FOIA by failing to respond to the request within 20 working days.

Right of appeal

12. 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: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

13. 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.
14. 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, Complaints Resolution
Information Commissioner's Office
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Cheshire
SK9 5AF**