

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 May 2015

Public Authority: East Lancashire Hospitals NHS Trust
Address: Royal Blackburn Hospital
Haslingden Road
Blackburn
BB2 3HH

Decision (including any steps ordered)

1. The complainant has requested information on a trainee doctor at East Lancashire Hospitals NHS Trust ("the Trust"). The Trust has failed to respond to the request. The Commissioner's decision is that the Trust has failed to comply with section 1 and section 10(1) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request: firstly, confirm or deny if the requested information is held. If the information is held the Trust must either disclose the requested information or issue a refusal notice in compliance with section 17 of the 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 3 February 2015, the complainant wrote to the Trust and requested information in the following terms:

"The date that Trainee Junior Doctor [information redacted] left ELHT (BRH) in 2014 to return to Canada."

5. The Trust acknowledged receipt of the request on 9 February 2015. The complainant did not receive any further response.

Scope of the case

6. The complainant contacted the Commissioner on 19 March 2015 to complain that he had not received a response to this request.
7. The Commissioner wrote to the Trust on 1 April and again on 5 May to chase up a response to this request. However, the complainant did not receive any further response from the Trust and the Commissioner also did not receive a response to his letter.

Reasons for decision

Section 1: general right of access

Section 10(1): time for compliance

8. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
9. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
10. In this case, the Trust has acknowledged receipt of the request but has provided no substantive response. Despite correspondence from the Commissioner the Trust has still failed to confirm or deny that it holds the requested information and has neither disclosed the requested information nor provided a valid refusal notice.
11. The Commissioner therefore finds the Trust in breach of section 1(1)(a), section 1(1)(b) and section 10(1) of the FOIA.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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
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SK9 5AF