

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 9 November 2021

**Public Authority:** Oxford University Hospitals NHS Foundation Trust

**Address:** John Radcliffe Hospital  
Headley Way  
Headington  
Oxford  
OX3 9DU

### **Decision (including any steps ordered)**

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1. The complainant requested information from Oxford University Hospitals NHS Foundation Trust ("the Trust") relating to the emergency assessment unit at John Radcliffe Hospital. By the date of this notice the Trust had not issued a substantive response to this request.
2. The Commissioner's decision is that the Trust has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation.
  - The Trust must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Trust must take this step 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

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5. On 26 August 2021, the complainant wrote to the Trust and requested information in the following terms:

*"Please find below my questions for the Freedom of Information team. Please note this is a different request to my previous request.*

- 1. Who was in charge of making the final decision in the EAU department on Wednesday 21th July, Thursday 22nd July, Friday 23rd July, Saturday 24th July, Sunday 25th July and Monday 26th July 21?*
- 2. How much time per day does a member of EAU staff spend per patient on their ward?*
- 3. What was the nurse to patient ratio on 21.07.21, 22.07.21, 23.07.21, 24.07.21, 25.07.21, 26.07.21 in the EAU department?*
- 4. How many trainee nurses and doctors were working in the EAU department on 21.07.21, 22.07.21, 23.07.21, 24.07.21, 25.07.21, 26.07.21?*
- 5. How many fully qualified nurses and doctors were working in the EAU department on 21.07.21, 22.07.21, 23.07.21, 24.07.21, 25.07.21, 26.07.21?*
- 6. What staff member decides who is transferred from EAU if required? ie nurse, sister, consultant, matron.*
- 7. How are staff trained to ensure patients eat and drink whilst in the EAU department?*
- 8. How are patients mental and physical wellbeing monitored whilst in EAU department?*
- 9. What are the necessary legal requirements and guidelines for the John Radcliffe EAU department to deem a person an 'exceptional circumstance' under the heading designated carer or patients who cannot make decisions for themselves?*
- 10. What demands did the John Radcliffe hospital have to deal with 21.07.21, 22.07.21, 23.07.21, 24.07.21, 25.07.21, 26.07.21?*

11. *Since the CQC report on the 7th June 2019, have all staff, medical and nursing, completed the mandatory training in keys skills as required?*
  12. *Since the CQC report on the 7th June 2019, how has the environment been improved for the services EAU is meant to provide?*
  13. *How many times per day are the patients of EAU assessed to see if they are in pain? Mentally or physically?*
  14. *What are the daily physical and mental checks a patient of EAU department can expect?*
  15. *What position staff member supports/signs off the decisions of the nursing staff in EAU?*
  16. *What systems were in place in the EAU department for identifying risks to patients and planning to eliminate them?"*
6. The Trust wrote to the complainant on 26 August 2021 to acknowledge the request. By the date of this notice, the Trust has not provided the complainant with a substantive response to the request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 8 October 2021 to complain about the Trust's failure to respond to their request.
8. The Commissioner has considered whether the Trust has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

### **Reasons for decision**

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9. 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."*

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
11. On 25 October 2021 the Commissioner wrote to the Trust, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Trust has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Trust did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Trust has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

## Right of appeal

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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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**