

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2022

Public Authority: Royal Free London NHS Foundation Trust
Address: Royal Free Group Headquarters
Anne Bryans House
77 Fleet Road
London
NW3 2QH

Decision (including any steps ordered)

1. The complainant has requested information relating to the procedure for inserting a naso-gastric feeding tube in a patient. The trust confirmed that it does not hold the requested information.
2. The Commissioner is satisfied that on the balance of probabilities the trust does not hold the requested information. He has however recorded a breach of section 10 of FOIA as the trust failed to respond to the complainant's request within 20 working days of receipt.

Request and response

3. On 6 September 2021, the complainant wrote to the trust and requested information in the following terms:

"1. In the RFH's 2017/2018 Annual Complaints report; a Naso-Gastric Feeding Tube was inserted in a patient. However, it took too long to commence the feed. The recommendations made by the RFH were: Get a Clinical Practice Educator to carry out an audit of NGT feeding documentation. In addition, if issues are found, implement training sessions. Did a clinical practice educator carry out an audit of NGT

feeding documentation and what was the outcome and can I please have any documentation relating to this?

2. In addition, did any training sessions take place regarding NGT documentation? The dates I refer to are 01/01/2017 – 01/01/2019?

3. How long should it take for a feed to begin; once a naso-gastric tube has been inserted? I am referring to a patient that needs an x-ray to confirm the position of the tube; as an aspirate was not possible?"

4. The trust responded on 23 November 2021. In relation to questions 1 and 2, it stated that it was unable to locate any information falling within the scope of these requests. For question 3, the trust confirmed that it does not hold this information.
5. The complainant requested an internal review on 26 November 2021.
6. The trust carried out an internal review and notified the complainant of its findings on 18 March 2022.

Scope of the case

7. The complainant contacted the Commissioner on 5 March 2022 to complain about the way his request for information had been handled. At this time the trust had not completed its internal review. This was later completed on 18 March 2022 following the Commissioner's intervention, following which the complaint was accepted for further investigation.
8. The Commissioner has considered whether, on the balance of probabilities, the trust holds recorded information within scope of parts 1 – 3 of the complainant's request and whether it has complied with section 1(1) of FOIA.

Reasons for decision

9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. As the trust correctly pointed out to the complainant, FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.

11. The Commissioner has reviewed questions 1 and 2 of the complainant's request and he is satisfied that the trust has carried out thorough searches of all relevant teams and roles to see if it holds any relevant recorded information. In its internal review it listed all the teams and roles it contacted to highlight the thoroughness of its enquiries. The trust advised that each team confirmed that it did not hold any information and that if any information was held it would be held by at least one of the teams it listed.
12. The trust advised the complainant that this does not definitively mean that the audit or any potential training sessions were not carried out; just that the trust cannot identify any recorded information relating to it.
13. Regarding question 3 of the complainant's request, the trust stated that it does not hold this information. It explained that there is no single answer to this question, as there are many variable factors to take into account when conducting such a procedure and initiating the feed. It confirmed that it contacted the Lead Nurse Specialist Practice Nutrition and they confirmed that it does not hold any data or further information on the time it takes for this process. It went on to confirm that there is no set time that is written down in any trust policies or guidelines.
14. The Commissioner sees no reason to doubt the trust's explanation here and considers the trust has made detailed enquiries of all teams and roles possible to try and identify any relevant recorded information. It has not identified any and notified the complainant accordingly. Whether it is felt the trust *should* hold the information is not a relevant factor.
15. Having considered all the circumstances, the Commissioner therefore accepts the trust's position that it does not hold recorded information that would address the complainant's three questions. As such, the Commissioner has decided that the trust has complied with section 1(1) of FOIA.

Procedural matters

16. The Commissioner notes that the trust failed to respond to the complainant's information request within 20 working days of receipt. The Commissioner has therefore recorded a breach of section 10 of FOIA.

Other matters

17. The Commissioner also notes that the trust took longer than it should to complete the internal review. The section 45 code of practice advises public authorities to carry out an internal review within 20 working days. It allows an extra 20 working days for those cases that are particularly complex or voluminous, but the Commissioner does not consider this particular case is one of them. The Commissioner would therefore like to remind the trust of the requirements of the code and the need to conduct timely internal reviews in future.

Right of appeal

18. 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

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

19. 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.
20. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF