

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 November 2022

Public Authority: North Middlesex University Hospital NHS Trust
(the Trust)

Address: Sterling Way
London
N18 1QX

Decision (including any steps ordered)

1. On 4 May 2022, the complainant requested information regarding discharging patients. The Trust partially responded to some of the request, confirmed it was unable to respond to one part of the request but failed to respond to some parts of the request at all.
2. The Commissioner's decision is that the Trust has breached section 10(1) FOIA as it failed to respond to all parts of the request. However the Commissioner considers that the Trust complied with its obligations under section 1(1)(a) FOIA in relation to the part of the request it confirmed it was unable to respond to.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - The Trust must provide a response to the elements of part 5 of the request it has failed to address and part 6 of the request. The Trust should confirm or deny whether it holds information and if information is held, it must either disclose it, or issue a refusal notice that complies with section 17 of the FOIA.
4. 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

5. On 4 May 2022, the complainant wrote to the Trust and requested information in the following terms:
 1. Should Patients always discharged by a fully qualified Doctor or Nurse?
 2. Who is responsible for completing the Discharge Checklist and where is this discharge checklist then filed afterwards?
 3. Is it normal for the electronic records showing a person is signed off the ward to just have a blank column with no other notes in these electronic records?
 4. Would the discharging Doctor/Nurse always be someone who works on that specific ward?
 5. Who is responsible for ordering any Ambulance Transport Home for a Patient, is this completed as part of the discharge checklist and how much notice is normally required for ordering this transport. Would the Ambulance Transport Service be sent a copy of any request in writing or should this be noted down anywhere else if not on the discharge checklist?
 6. Would the discharging Nurse/Doctor check in the medical records first to ensure that any necessary assessments had been completed by Physiotherapy/Occupational Therapy before signing off the discharge even if the Ambulance Transport had turned up in the meantime?
 7. Is the discharging Nurse/Doctor responsible for ensuring that the family of the patient is made aware of what condition they are in and to ensure that they are aware of how to care for that person once they return home including making them aware of any special needs they have of that they need to use a walking frame/walking stick?
6. The Trust responded on 27 May 2022. It partially responded to some of the request, confirmed it was unable to respond to one part of the request but failed to respond to some parts of the request at all.
7. On 28 May 2022 the Complainant requested an internal review in relation to parts 3, 5 and 6 of the request:

Part 3

"The question was asked if it is normal for the electronic records showing a person is signed off the ward to just have a blank column with no other notes in these electronic records.

The response received was "We are unable to answer this question. For information, electronic inpatient clinical notes were introduced in the Trust during the winter of 2021-22".

Helpful though this is to be advised when the system was implemented, this has still not answered the basic question if the column signing a person off the ward should be blank or not. If this is a system currently in operation in the hospital, any Doctor/Nurse or your IT Department should be able to simply confirm if this column on the system should be blank or if data can be added. Furthermore, no explanation has been given as to why you have been unable to answer the question."

Part 5

"The questions asked were who is responsible for ordering any Ambulance Transport Home for a Patient, is this completed as part of the discharge checklist and how much notice is normally required for ordering this transport. Would the Ambulance Transport Service be sent a copy of any request in writing or should this be noted down anywhere else if not on the discharge checklist.

The response received was "The Ward Clerk or registered Nurse would book transport for the patient. This is done electronically. The transport can be booked in advance but most often is booked on the day of discharge. This can take from 1 ½ hours to 6 hours."

Part of these questions have not been answered and part contradict the instructions in the Patient Transport Service Policy, I asked if ordering of the transport service was completed as part of the discharge checklist, this has not been answered. I asked if the Ambulance/Patient Transport Service would be sent a copy of any request in writing (other than the electronic request), this has not been answered. The Patient Transport Service Policy advised that transport should normally be ordered by 5pm the day before the discharge, but the Discharge Checklist at appendix 8 of the Discharge Policy states this should be ordered by 3pm on the day before discharge. These different timescales on different policy documents and then the timings given in response to the FOI question has not given a definitive answer."

Part 6

"The question asked was would the discharging Nurse/Doctor check in the medical records first to ensure that any necessary assessments had been completed by Physiotherapy/Occupational Therapy before signing

off the discharge even if the Ambulance Transport had turned up in the meantime.

The response received was "Each patient is discussed on a daily basis. The therapist would give their input to say whether the patient can go home or not, based on this MDT meeting a decision is made on if the patient is medically fit and safe to be discharged".

This has still not answered the question. This has not confirmed if the Discharging Nurse checks in the medical records first if all the assessments have been completed before discharging a patient and therefore it has also not answered the question what happens if someone is still being assessed when the Ambulance Transports turns up."

8. On 7 June 2022 the Trust responded, it refused to carry out an internal review, explaining:

"There is no detail supplied as to the reasons for such an appeal, and it appears that all questions were answered fully in the Trust's previous response. In any event, this matter refers to and is closely linked with your original complaints and as per our correspondence with you on 17th May, we are not proposing to engage in any further correspondence with you on this matter pending the outcome of the PHSO review."

Scope of investigation

9. The Commissioner has determined whether the Trust responded to the complainant's FOIA request dated 4 May 2022 in full in accordance with its obligations under section 10 FOIA.
10. The Commissioner has also considered whether the Trust complied with its obligations under section 1(1)(a) FOIA in relation to part 3 of the request and will address the complainant's concerns that some of the information provided in response to part 5 of the request contradict Trust Policies.

Reasons for decision

11. Section 1(1) of 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."

12. Section 10(1) of 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".

Part 3

13. In relation to this request the Trust has said that it is unable to respond. The complainant has asked whether it is normal for a specific column to be left blank. In her internal review request, the complainant has argued that, "If this is a system currently in operation in the hospital, any Doctor/Nurse or your IT Department should be able to simply confirm if this column on the system should be blank or if data can be added."
14. Under section 1(1)(a) FOIA the public authority is obliged to confirm whether it holds recorded information relevant to the scope of a request. In this case the complainant has had access to the Trust's Discharge and Patient Transport policies. The Trust is not however obliged to ask a member of staff to provide confirmation or explanation to be able to respond to a request. In this case it has said it is unable to respond to the request and therefore this implies to the Commissioner, on the balance of probabilities, there is no further recorded information held (other than the Trust's Discharge and Patient Transport policies which the complainant already has access to) under section 1(1)(a) FOIA. As explained above the Trust is not obliged to ask a member of staff to provide confirmation or explanation. The Trust has therefore complied with its obligations under section 1(1)(a) FOIA in this case.

Part 5

15. The complainant considers that her request as to whether ordering of the transport service was completed as part of the discharge checklist, and the request as to whether the Ambulance/Patient Transport Service would be sent a copy of any request in writing (other than the electronic request) have not been answered.
16. Upon viewing the Trust's response it would appear that it has failed to address these elements of part 3 of the request.
17. The Trust has therefore failed to comply with its obligations under section 10(1) FOIA in relation to these aspects of part 3 of the request and must therefore now provide the complainant with a response.
18. In relation to the complainant's concern that some of the information provided in response to this FOIA request is contradictory to Trust Policies, the accuracy of recorded information provided does not fall within the Commissioner's remit under section 50 FOIA. The Commissioner cannot comment upon whether the Trust holds

contradictory recorded information. Whilst the complainant may have come to this conclusion based upon information she has obtained via FOIA, she will have to pursue these concerns directly with the Trust outside of FOIA.

Part 6

19. The complainant considers that her request regarding whether there is a procedure for the discharging Nurse to check in the medical records first if all the assessments have been completed before discharging a patient and the procedure if someone is still being assessed when the Ambulance Transports turns up have not been responded to.
20. Upon viewing the Trust's response it would appear that it has failed to address part 6 of the request.
21. The Trust has therefore failed to comply with its obligations under section 10(1) FOIA in relation to part 6 of the request and must therefore now provide the complainant with a response.

Other matters

22. When an internal review is requested, whilst there is no statutory time limit for carrying out an internal review, the Commissioner considers that they should usually be completed within 20 working days and should never take longer than 40 working days.
23. In this case the Trust refused to carry out an internal review due to an ongoing complaint outside of FOIA and a separate referral to PHSO which was pending. The Commissioner does not consider that these are valid reasons to refuse to conduct an internal review where a public authority would ordinarily have such a procedure in place.
24. As the Trust referred to a review procedure in its response of 27 May 2022 it clearly does have such a procedure in place. Furthermore the complainant did clearly specify in the request for internal review the elements of the response she was dissatisfied with and why.
25. The Commissioner therefore considers that it was extremely poor practice for the Trust to have failed to conduct a review in this case and furthermore had an internal review taken place this may have sufficiently address the complainant's concerns and avoided the complainant having to refer this matter to the Commissioner.

Right of appeal

26. 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@justice.gov.uk

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

27. 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.
28. 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.....

Gemma Garvey
Senior Case Officer
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Wycliffe House
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