

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

### **Decision notice**

**Date:** 29 November 2022

**Public Authority:** Salisbury NHS Foundation Trust  
**Address:** Salisbury District Hospital  
Odstock Road  
Salisbury  
SP2 8BJ

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

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1. The complainant has requested Salisbury NHS Foundation Trust ('the Trust') to disclose information relating to its Emergency Preparedness, Resilience and Response (EPRR) plans and arrangements. The Trust refused to confirm or deny holding the information but failed to specify under which exemption(s).
2. The Commissioner's decision is that the Trust is not entitled to refuse to confirm or deny holding the information and has therefore breached section 1 of FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
  - The Trust is required to confirm or deny whether it holds the requested information in accordance with section 1 of FOIA. If the Trust holds the information, it should either disclose that to the complainant or issue a refusal notice in accordance with section 17 of 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**

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5. On 26 May 2022, the complainant wrote to the Trust and requested information in the following terms:

“Coordination of emergency and disaster management activities

Hospital Emergency / Disaster Committee

Any record of the current existence of a multidepartmental and multidisciplinary committee to coordinate EPRR measures. If such a committee exists then any record of which departments and disciplines are represented on it and the date the committee most recently met.

Committee member responsibilities and training

If such a committee above exists then any record that committee members have received training for their role on the committee and any record that committee members have been assigned specific responsibilities.

Designated emergency and disaster management coordinator

Any record of the current existence of a hospital emergency / disaster management coordinator. If such a co-ordinator exists then any record of what whole time equivalent of their time is devoted to emergency and disaster management.

Preparedness programme for strengthening emergency and disaster response and recovery

Any record that activities to strengthen EPRR have been implemented in the past 12 months.

Hospital incident management system

Any record of the current existence of list(s) of key personnel roles in a hospital incident management system for the command, control and coordination in an emergency or disaster response. If such list(s) exists then any record of the existence of corresponding key personnel role action procedure documents.

Emergency Operations Centre (EOC)

Any record of the current existence of a designated Incident Coordination Centre. If such an Incident Coordination Centre exists then any record of whether it has full immediate operational capacity in an emergency.

Coordination mechanisms and cooperative arrangements with local / disaster management agencies

Any record of the existence of current formal co-ordination or co-operation mechanisms or arrangements between the Trust and emergency/disaster management agencies (e.g. local authorities, police services, fire and rescue services, civil society organisations) in order to support Trust functions in time of emergency or disaster.

If such mechanisms or arrangements above exist then any record of the most recent exercise(s) to test them, including date(s) of exercise(s).

Coordination mechanisms and cooperative arrangements with the healthcare network

Any record of the existence of current formal co-ordination or co-operation mechanisms or arrangements between the Trust and other healthcare providers in order to support Trust functions in time of emergency or disaster.

If such mechanisms or arrangements above exist then any record of the most recent exercise(s) to test them, including date(s) of exercise(s)."

6. The Trust responded on 16 June 2022. It refused to confirm or deny whether the requested information is held. No exemption(s) were cited.
7. The complainant requested an internal review on 19 June 2022.
8. The Trust carried out an internal review and notified the complainant of its findings on 22 June 2022. It upheld its previous decision.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 22 June 2022 to complain about the way their request for information had been handled. They said that 37 other trusts have provided this information in response to similar requests. The Trust is therefore incorrect to refuse to confirm or deny if it holds the information and to provide it.

10. The scope of the Commissioner's investigation is to determine whether the Trust is entitled, or not, to refuse to confirm or deny whether it holds the requested information.

## **Reasons for decision**

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11. The Trust has refused to confirm or deny whether it holds the requested information. It has however failed to specify under which exemption(s) outlined in Part II of FOIA it is refusing to confirm or deny.
12. The refusal to confirm or deny if information is held is used in cases where that simple refusal or confirmation of whether information is held would reveal withheld information itself or would or would be likely to prejudice the matters or functions outlined in the particular exemption cited by the public authority.
13. This request concerns the NHS EPRR Framework, which the Commissioner understands was first published in 2015. The aim of the framework is to ensure that effective arrangements are in place to deliver appropriate care to patients affected during an emergency or incident. Under the Civil Contingencies Act 2004 the Trust is designated a primary responder (an organisation at the core of emergency response and which is subject to the full set of civil protection duties). Amongst other things, it is required to put in place emergency plans and business continuity management arrangements. It is also to put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency.
14. The complainant has stated themselves that 37 other trusts across the UK have provided this information or very similar. The Commissioner notes, too, that some trusts publish information about the EPRR Framework and how they meet the relevant requirements on their websites.
15. The request is mostly for high level information about the existence of specific arrangements or mechanisms implemented by the trust to meet the EPRR requirements. The Framework specifies that the Trust should have emergency plans in place. It also states that the Trust should then have arrangements in place to inform the public about those emergency plans.
16. As stated above no exemption(s) has been cited by the Trust; it has simply refused to confirm or deny holding the information. For the above reasons, the Commissioner does not agree the Trust is entitled to refuse to confirm or deny holding the requested information. He does not agree

that this simple confirmation (yes we hold the information, no we do not) would reveal withheld information itself or prejudice the matters or functions outlined in the various exemptions under FOIA.

17. The summary section of the notice outlines the steps now required by the Trust.

**Procedural matters**

18. Section 1 requires a public authority to confirm in writing whether or not it holds recorded information of the nature specified in the request. It is then obliged to either communicate that information to the applicant or issue a refusal notice in accordance with section 17 of FOIA. The refusal notice should outline clearly what exemption(s) apply and, if not already obvious, why.
19. The Commissioner does not consider the Trust is entitled to refuse to confirm or deny holding the requested information for the reasons given above. The Trust is therefore in breach of section 1 of FOIA.

## Right of appeal

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20. 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)

21. 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.
22. 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**