

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 December 2022

**Public Authority:** Chesterfield Royal Hospitals NHS Foundation Trust

**Address:** Chesterfield Road  
Calow  
Chesterfield  
S44 5BL

### Decision (including any steps ordered)

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1. The complainant has requested information about regarding vascular services arrangements.
2. Chesterfield Royal Hospitals NHS Foundation Trust (the Trust) refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA.
3. The Commissioner's decision is that the Trust has incorrectly relied upon section 14(1) to refuse the request.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a fresh response to the request not relying upon section 14(1) FOIA.
5. 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 FOIA and may be dealt with as a contempt of court.

### Request and response

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6. The complainant made the following information request on 6 September 2022:

"Regarding your vascular services arrangements with the University Hospitals of Derby and Burton (UHDB) could you please provide the following information.

1. On the 10th February 2021 (ref: FOI21-41) CRH provided two copies of its vascular SLA's that it holds with the UHDB.

With regards to the "Vascular SLA UHDB to CRHFT 20 21.pdf" document,

<https://www.whatdotheyknow.com/request/7...>

which has the commencement date of 1st April 2020.

a. Please could you provide me with a copy of the latest agreement so I can see if any changes have been made to it.

b. With regards to the Quarterly Vascular Network Review Meetings as mentioned on pages 12 & 13, please could you send me the minutes/documentation and any outcome documentation made born from its last review meeting.

c. With regards to the "Vascular SLA CRHFT to UHDB 2021.pdf" document

<https://www.whatdotheyknow.com/request/7...>

Please could you provide me with a copy of the latest agreement so I can see if any changes have been made to it.

2. With regards the annual vascular self-assessment that is completed by UHDB, please could you provide the following information.

a. A copy of the agreement made between UHDB and CRH showing the patient pathways that are followed by both parties for:

Abdominal Aortic Aneurysm (AAA);

- The management of ruptured AAA;
- The investigation and management of unruptured, including screen-detected AAA.

Nb. Pathways specify how the different Centres and groups of professionals should interact at defined stages of the patient journey, for diagnosis, assessment, management or follow up, as relevant.

b. A copy of the agreement made between UHDB and CRH showing the patient pathways that are followed by both parties for:

Major amputation surgery.

Nb. Pathways specify how the different Centres and groups of professionals should interact at defined stages of the patient journey, for diagnosis, assessment, management or follow up, as relevant.

c. A copy of the agreement made between UHDB and CRH showing the clinical guidelines that are followed by both parties for patients with:

- abdominal aortic aneurysm;
- carotid disease;

- peripheral arterial disease including amputation;
- vascular injury
- venous disease including leg ulcer

Nb. Clinical guidelines cover guidelines, protocols, 'SOPs' which describe how to manage a patient in a given clinical situation or specified point on the pathway. Examples include assessment checklists, surgical procedures, treatment protocols, key investigations at follow-up visits etc.

d. The name of the main contact/vascular clinician that the Trust knows is responsible for the vascular network if this is not Mr Rowlands that one could assume by looking in the the SLA document.

If anything is unclear then please do not hesitate to contact me for clarification.”

7. The Trust responded on 3 October 2022. It refused to comply with the request, stating that it was vexatious.
8. On 12 October 2022 the complainant requested an internal review.
9. The Trust provided the outcome to its internal review on 3 November 2022. The Trust upheld its original position.

### **Scope of investigation**

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10. The Commissioner has considered whether the Trust was correct to refuse to comply with the request under section 14(1) FOIA.

### **Reasons for decision**

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#### **Section 14(1) – vexatious requests**

11. Section 14(1) of FOIA states:

- "Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."
12. The Commissioner's guidance<sup>1</sup> states that a vexatious request will represent 'a manifestly unjustified, inappropriate or improper use of a formal procedure.'
  13. Some requests will be clearly vexatious whilst other requests will be less clear cut. In all cases, the important question for a public authority to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
  14. In this case the Trust has provided the Commissioner with a very detailed document setting out the burden imposed by FOI requests submitted by the complainant since 2019 regarding vascular services arrangements. Whilst this document is extremely detailed, it describes all contact whether this was a new FOI request, a request for internal review or the impact upon the Trust of then responding to a resulting section 50 complaint made to the Commissioner. The Commissioner has counted nine FOI requests made between February 2019 and September 2022. This is over a three year period. Whilst some of the requests are fairly lengthy (which is likely to increase the burden of complying) some were much shorter and succinct. The Commissioner does not consider that the nine requests over a three year period imposes a burden sufficient to meet the high bar of categorising a request as vexatious under section 14 FOIA.
  15. The Trust has also said that it does not consider that there is a serious purpose and value in this request due to the context and background however it does not provide any further argument in this regard.
  16. The complainant has said, "The rationale for requesting this information is in order to finalise a report that I wish to present to NHS England regarding the vascular network that this Trust is a part of."
  17. The Commissioner does not consider that it can be said that there is no serious purpose or value in this request, and based upon burden alone

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<sup>1</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/what-does-vexatious-mean/>

he is not satisfied that the high bar to engage section 14(1) FOIA has been met in this case.

## Right of appeal

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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: 0300 1234504

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)

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.....**

**Gemma Garvey**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**