

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 February 2023

Public Authority: North West Ambulance Service NHS Trust
Address: Ladybridge Hall Headquarters
Chorley New Road
Bolton BL1 5DD

Decision

1. The Commissioner's decision is that North West Ambulance Service NHS Trust (NWAS) is entitled to withhold the requested information about 999 call-handling under section 38 of FOIA, which concerns health and safety. It is not necessary for NWAS to take any steps.

Request and response

2. The complainant requested "...a copy of your control room policy/procedure, ie the document that governs how your 999 call handlers deal with calls" which on 11 October 2022 they clarified as being for "the rules and procedures which call handlers follow including escalation".
3. Having originally relied on section 43 of FOIA to withhold the information which concerns commercial interests, NWAS's final position was to refuse the request under section 24 of FOIA which concerns health and safety. NWAS subsequently confirmed to the Commissioner that it considers that the information is exempt from disclosure under section 38. The information in scope is a Safety Plan document and a 999 triaging software system.

Reasons for decision

4. This reasoning focusses in the first instance on NWAS' application of section 38(1) of FOIA to the complainant's request.
5. Under section 38(1) information is exempt information if its disclosure would or would be likely to a) endanger the physical or mental health of any individual or b) endanger the safety of any individual.
6. In a submission to the Commissioner the Trust has said that it does not consider that it would be in the public or the wider NHS's interests for patients and members of the general public to potentially be aware of the highly complex, technical algorithms associated with the description and answers they provide when calling 999 for life threatening emergency health conditions and incidents and/or their associated ambulance service responses.
7. The Trust explained that a patient who raises a concern or a complaint about their care will be told what category of prioritisation their 999-call generated eg category 1, 2, 3 and 4. They will be given information on applicable national performance standards and how the service performed in their case against those standards. Individuals will not be told how the prioritisation system reached that triage output.
8. The Trust considers that section 38(1) is engaged on the basis that if information was known, patients may give inaccurate information in order to be given a higher priority response. This could result in inappropriate medical advice being provided and/or the inappropriate deployment of emergency medical services. This can mean that the caller would not receive care which is best suited to their circumstances, which could result in harm to them. It could also mean that if resources have been wrongly deployed to a patient who has manipulated their responses, other patients are being put at risk of harm by not receiving the right level of care and response they require. For these reasons the Trust considers it is essential to take steps to ensure that information remains withheld.
9. The Trust has gone on to say that there is already evidence of patients with some knowledge of the triage system due to repeat calling, trying to manipulate their response. For example, a patient may say they are bleeding profusely so are given a high priority but on arrival the Trust discovers the patient has sustained a small cut to their finger. Or a patient may say they are suffering a heart attack and cannot breathe when in fact they have a bad cough that has gone on for a while.
10. The Trust says it has a well-established Frequent Callers Team to manage patients who call the service on a regular basis, often with

exaggerated conditions. Where possible the Team helps them find more appropriate routes to care. Frequent callers call the emergency service for a vast range of conditions, both physical and mental. Every call that is made that is exaggerated causes potential harm to other patients in the community who may not be able to get through to the service or be put in a queue and are therefore delayed in receiving urgent and or emergency care.

11. The following data the Trust provided to the Commissioner relates to patients currently on its frequent caller lists who have all called 999 in the last six months. Out of 52 patients 26 (50%) were found to have a different clinical outcome/response when clinicians assessed them, to the one they were allocated based on the information they provided when making their call:
 - Greater Manchester, 20 callers, 8 were found to have a different outcome
 - Cumbria and Lancashire, 16 callers, 8 were found to have a different outcome
 - Cheshire and Merseyside, 16 callers, 11 were found to have a different outcome
12. According to the Trust, NHS Digital who owns the copyright to NHS Pathways also considers that releasing this information to the public via the FOIA route would be likely to endanger the physical health and the safety of individuals by providing information which could be used to 'shortcut' the system. As stated above, this would mean that the caller would not receive care which is best suited to their circumstances, which could result in harm to them. It could also cause harm to other patients for whom a response and/or emergency ambulance response may not be available.
13. The Trust directed the Commissioner to a [FOIA request for NHS Pathways information](#) that NHS Digital had refused under section 38.
14. Based on the Trust's submission and the context of the withheld information, the Commissioner is satisfied that there is a causal link between disclosing the information and endangerment to individuals' health and safety, for the reasons the Trust has given. Furthermore, the Commissioner is satisfied that the likelihood of this occurring is one that is more than hypothetical. The Commissioner has decided that the Trust is entitled to withhold the requested information under section 38(1) of FOIA as disclosure would be likely to endanger individuals' health or safety. He has gone on to consider the associated public interest test.

15. The Commissioner has found that disclosing the requested information would be likely to endanger individuals' health or safety. The public interest in disclosure would have to be extraordinarily great to justify endangering anyone's health or safety. In their complaint to the Commissioner, the complainant argued that the public should be able to see this key information as ambulance response procedures are potentially a matter of life and death for the public. The Commissioner notes that argument but is satisfied that the high public interest threshold for disclosure is not met in this case. The public interest in the Trust's handling of 999 calls is met to a satisfactory degree through the related information that the Trust proactively publishes and which is made available to patients as appropriate.
16. Because he has found that the requested information engages section 38 of FOIA, it has not been necessary to consider NWAS' application of section 24.

Right of appeal

17. 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

18. 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.
19. 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
Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
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