

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 August 2012

Public Authority: Mid Yorkshire NHS Trust

Address: Trust HQ & Medical Education Centre,
Pinderfields General Hospital, 2nd Floor,
Aberford Road, Wakefield, West Yorkshire,
WF1 4DG

Decision (including any steps ordered)

1. The complainant has requested information relating to complaints or compensation claims against a named surgeon.
2. The Commissioner's decision is that Mid Yorkshire NHS Trust (the 'Trust') has breached section 10 of the FOIA by failing to meet its obligations under section 1 of the Act.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response to the complainant to confirm or deny whether it holds any information that falls within the request; and
 - Communicate the information it holds to the complainant and/or issue a refusal notice in respect of all or parts of the information it intends to withhold in accordance with section 17 of the FOIA.
4. The Trust 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 13 January the complainant wrote to the Trust and requested information in the following terms:

"Have there been any complaints or claims for compensation regarding

[named surgeon]'s work at Mid Yorkshire?

What the outcome was of the review into [named surgeon]'s work, previously referred to in board minutes (I assume this is superceded by your follow up query – full details of the review?)

I would like full details of the outcome of the review, a copy would be the most helpful way to deal with that aspect."

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He stated that he had not received any response to his request for information.
7. The Commissioner contacted the Trust on 2 April 2012 to advise a complaint had been received and the Trust should respond within 10 working days.
8. The Trust failed to respond to the complainant or to the Commissioner.

Reasons for decision

9. Section 1(1) of FOIA provides that any person making a request for information 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.
10. Section 10(1) of FOIA states that:
 - (1) Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
11. The Trust has not responded to the request and therefore has breached section 10(1) by failing to meet its obligations under section 1(1) of FOIA.

Right of appeal

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. 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.
13. 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

**Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**