

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

### **Decision notice**

**Date:** 18 February 2020

**Public Authority:** Harrogate Healthcare Facilities Management Limited

**Address:** Harrogate District Hospital  
Lancaster Park Road  
Harrogate  
HG2 7SX

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

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1. The complainant requested information about a publication scheme.
2. The Commissioner's decision is that Harrogate Healthcare Facilities Management Ltd ("HHFM") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires HHFM to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. HHFM 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 FOIA and may be dealt with as a contempt of court.

### **Publicly-owned companies**

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5. HHFM's listing with Companies House shows that it is a private limited company, but one which is wholly owned by Harrogate and District NHS Foundation Trust. Under Section 6(1)(b) of the FOIA it is therefore a public authority in its own right.

## Request and response

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6. On 30 November 2019, the complainant wrote to HHFM and requested information in the following terms:

*"As I understand from the Information Commissioner's guidance that Harrogate Healthcare Facilities Management Ltd, a wholly owned company of Harrogate NHS Foundation Trust, is a ` Public Authority ` in its own right and independently subject to Freedom of Information Act responsibilities, I write to make an FOI request for details of it's Publication Scheme, together with a request for either website access to scheme documents or e-copies of the documents themselves." [sic]*

7. HHFM did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

## Scope of the case

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8. The complainant contacted the Commissioner on 10 January 2020 to complain about the failure, by HHFM, to respond to the request.
9. In line with her usual practice, the Commissioner contacted HHFM on 24 January 2020 to highlight the outstanding response. She requested that HHFM respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
10. The complainant contacted the Commissioner on 10 January 2020 to request a decision notice considering HHFM's compliance with the FOIA.
11. The scope of this notice and the following analysis is to consider whether HHFM has complied with section 10 of the FOIA.

## Reasons for decision

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12. Section 1(1) of the 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.*

13. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

14. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

15. Section 10 of the FOIA states that responses to requests made under the Act must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt."*

16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, HHFM has breached section 10 of the FOIA.

## Right of appeal

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Phillip Angell  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**