

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 April 2021

Public Authority: Northamptonshire Healthcare
NHS Foundation Trust

Address: Sudborough House
St Mary's Hospital
London Road
Kettering
NN15 7PW

Decision (including any steps ordered)

1. The complainant has submitted a series of multi-part requests for information to Northamptonshire Healthcare NHS Foundation Trust ('the Trust'). The Trust addressed some of the complainant's questions and has refused to comply with the remainder of the requests under section 12(1) of the FOIA as it says the cost of doing so would exceed the appropriate limit.
2. The Commissioner's decision is as follows:
 - The cost of complying with the remainder of the complainant's requests would exceed the appropriate limit under section 12(1) of the FOIA and the Trust is not obliged to do so.
 - The Trust could not have reasonably been expected to provide advice and assistance and no breach of section 16(1) of the FOIA occurred.
3. The Commissioner does not require the Trust to take any remedial steps.

Request and response

4. On 16 April 2020 the complainant submitted a series of requests for information to the Trust in one single piece of correspondence. The requests comprise 120 separate questions. Given the requests' length, they are provided in the Appendix to this notice.
5. On 18 May 2020 the Trust responded. It addressed some of the complainant's questions and refused to comply with the remainder, citing section 12(1) of the FOIA.
6. The complainant requested an internal review on 19 May 2020. The Trust provided an internal review on 10 June 2020. It maintained its position that it had provided the complainant with all the information it could provide within the appropriate cost limit under section 12(1) of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 11 June 2020 to complain about the way their request for information had been handled.
8. The Commissioner's investigation has focussed on whether the Trust can rely on section 12(1) of the FOIA to refuse to comply with the remainder of the complainant's requests. She will also consider whether the Trust could reasonably have been expected to offer the complainant advice and assistance, in line with section 16(1) of the FOIA.

Reasons for decision

Section 12 – cost of compliance exceeds appropriate limit

9. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to him or her if it is held and is not exempt information.
10. Section 12(1) of the FOIA says that a public authority is not obliged to comply with section 1(1) if the authority estimates that the cost of doing so would exceed the appropriate limit.
11. Section 12(4)(a) provides that where two or more requests for information are made to a public authority by one person the estimated

cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

12. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the Trust. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
- determine whether it holds the information
 - locate the information, or a document which may contain the information
 - retrieve the information, or a document which may contain the information, and
 - extract the information from a document containing it.
13. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the applicant refine the request so that it can be dealt with under the appropriate limit, in line with section 16(1) of the FOIA.
14. In its submission to the Commissioner, the Trust has explained that its process is to contact all services that hold data relevant to a request. In this case, services were asked to confirm if they hold the information and to provide the information or to advise where there may have been an issue. It was established that to fulfil these specific requests, a manual search would need to be undertaken of existing electronic files and systems to be able to answer the majority of the questions asked.
15. The Trust provided the Commissioner with the following breakdown of the hours needed to comply with the requests, to support its application of section 12(1):

| Service | Time estimate in hours | What activity would need to take place |
|----------------|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| ECT | 15 hours 40 minutes | <ul style="list-style-type: none"> • Manual interrogation of approximately 170 individual records at twenty minutes per record |

| | | |
|---------------------------------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <ul style="list-style-type: none"> Manual interrogation of 15 records at 20 minutes per record |
| Patient Safety Team | 50 hours 15 minutes | <ul style="list-style-type: none"> Manual interrogation of 33 records 1 hour and 15 minutes per record Manual search of complaints received during calendar year at 9 hours |
| Mental Health Inpatient (Restraint and Seclusion) | Unknown due to complexity | <ul style="list-style-type: none"> Restraint and seclusion timeframe to manually interrogate unknown due to complexity of clinical recording and not counted in the minimum timeframe |
| Pharmacy | 43 hours | <ul style="list-style-type: none"> 30 minutes to run report 8 hours to cross reference the report with clinical systems recording to identify missing data fields 30 hours manual |

| | | |
|--|--|-----------------------------------------------------------------------------------------------------------------------------------|
| | | interrogation across 60 records <ul style="list-style-type: none"> • 4.5 hours to manually search complaints |
|--|--|-----------------------------------------------------------------------------------------------------------------------------------|

16. The Trust advised the Commissioner that above table demonstrates that the effort and cost to fulfil the requests was identified to be a minimum of 108 hours, equating to a cost of £2,700.
17. Given the nature of the information requested, the way in which the Trust records information and the volume of records that would need to be manually reviewed, the Commissioner is satisfied that it would take the Trust far longer than 18 hours to comply with the remainder of the complainant's questions. In line with section 12(4), because it would exceed the appropriate limit to comply with, for example, the questions associated with the request for information about the Patient Safety Team, the Trust is not obliged to consider the remaining requests.
18. The Commissioner is satisfied that the Trust is entitled to rely on section 12(1) of the FOIA to refuse to comply with the complainant's requests.

Section 16 – advice and assistance

19. Section 16(1) of the FOIA places a duty on a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
20. In its submission to the Commissioner, the Trust says it tried to assist the complainant by providing readily available information and it included this within the final response letter to them. The Trust says it had considered when preparing the Section 12 exemption whether the complainant could be advised to refine their request. But due to the way the Trust holds the requested data it decided, in discussion with the Senior Information Risk Owner, to provide what was readily available to assist the complainant.
21. On reconsideration however, the Trust says that it has identified that its correspondence did not include an opportunity for the complainant to refine the information requested to make complying with the request fall within the time limit. The Trust says it has taken this forward as part of its learning from the handling of this request and has amended its

process to ensure that the opportunity to refine a request is included in all future responses.

22. The complainant submitted an extremely high number of questions to the Trust, across five requests. Given that complying with any of the five requests would have exceeded, or was very likely to exceed, the cost limit, it is difficult to see how the complainant could have refined their requests and still have received information that covered all of their broad areas of interest. The Commissioner notes that the Trust did address the complainant's questions where it could do so readily. On balance therefore the Commissioner finds that the Trust could not reasonably have been expected to offer any further advice and assistance on how the complainant could refine such a wide-ranging request to the point where complying with it would fall within the cost limit. Therefore there was no breach of section 16(1) of the FOIA. The Commissioner has noted, however, that the Trust has improved its process for managing future requests that are caught by section 12.

Right of appeal

23. 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

24. 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.
25. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

APPENDIX

Please provide ECT information under the FOI act to the following questions: -

- 1. Please supply patient's information ECT leaflet.***
- 2. Please supply patient ECT consent form.***
- 3. Please supply any ECT reports/investigations***
- 4. How many ECT in 2019?***
- 5. What proportion of patients were men/women?***
- 6. How old were they?***
- 7. What were the diagnoses and in what proportions?***
- 8. What proportion of patients were classified BAME?***
- 9. How many were receiving ECT for the first time?***
- 10. How many patients consented to ECT?***
- 11. How many ECT complaints were investigated outside the NHS and CCG?***
- 12. How many patients died during or soon after ECT and what was the cause (whether or not ECT was considered the cause)?***
- 13. How many patients died a few months after ECT and what was the cause (whether or not ECT was considered the cause)?***
- 14. How many patients died by suicide within a few months of receiving ECT (whether or not ECT was considered the cause)?***

15. How many patients have suffered complications during and after ECT and what were those complications?

16. Have there been any formal complaints from patients/relatives about ECT?

17. If so, what was their concerns?

18. How many patients report memory loss/loss of cognitive function?

19. What tests are used to assess memory loss/loss of cognitive function?

20. Have MRI or CT scans been used before and after ECT?

21. If so what was the conclusion?

22. How does the Trust plan to prevent ECT in the future?

Please provide SERIOUS INCIDENT information under the FOI act to the following questions: -

1. Please supply SERIOUS INCIDENT REPORTS patient's information leaflet.

2. Please supply patient SERIOUS INCIDENT REPORTS consent form.

3. Please supply any serious incident reports/investigations

4. How many SERIOUS INCIDENT REPORTS in 2019?

5. What proportion of patients were men/women?

6. How old were they?

7. What were the diagnoses and in what proportions?

8. What proportion of patients were classified BAME?

9. How many were receiving SERIOUS INCIDENT REPORTS for the first time?

10. How many patients consented to SERIOUS INCIDENT REPORTS?

11. How many SERIOUS INCIDENT REPORTS were investigated outside the NHS and CCG?

12. How many patients died during or soon after SERIOUS INCIDENT REPORTS and what was the cause (whether or not SERIOUS INCIDENT REPORTS was considered the cause)?

13. How many patients died a few months after SERIOUS INCIDENT REPORTS and what was the cause (whether or not SERIOUS INCIDENT REPORTS was considered the cause)?

14. How many patients died by suicide within a few months of receiving SERIOUS INCIDENT REPORTS (whether or not SERIOUS INCIDENT REPORTS was considered the cause)?

15. How many patients have suffered complications during and after SERIOUS INCIDENT REPORTS and what were those complications?

16. Have there been any formal complaints from patients/relatives about SERIOUS INCIDENT REPORTS?

17. If so, what was their concerns?

18. How many patients report memory loss/loss of cognitive function?

19. What tests are used to assess memory loss/loss of cognitive function?

20. Have MRI or CT scans been used before and after SERIOUS INCIDENT REPORTS?

21. If so what was the conclusion?

22. How does the Trust plan to prevent SERIOUS INCIDENTS in the future?

Please provide restraints information under the FOI act to the following questions: -

- 1. Please supply RESTRAINTS patient's information leaflet.***
- 2. Please supply patient RESTRAINTS consent form.***
- 3. Please supply any Restraints/investigations***
- 4. How many RESTRAINTS in 2019?***
- 5. What proportion of patients were men/women?***
- 6. How old were they?***
- 7. What were the diagnoses and in what proportions?***
- 8. What proportion of patients were classified BAME?***
- 9. How many were receiving RESTRAINTS for the first time?***
- 10. How many patients consented to RESTRAINTS?***
- 11. How many RESTRAINTS were investigated outside the NHS and CCG ?***
- 12. How many patients died during or soon after RESTRAINTS and what was the cause (whether or not RESTRAINTS was considered the cause)?***
- 13. How many patients died a few months after RESTRAINTS and what was the cause (whether or not RESTRAINTS was considered the cause)?***
- 14. How many patients died by suicide within a few months of receiving RESTRAINTS (whether or not RESTRAINTS was considered the cause)?***

15. How many patients have suffered complications during and after RESTRAINTS and what were those complications?

16. Have there been any formal complaints from patients/relatives about RESTRAINTS?

17. If so, what was their concerns?

18. How many patients report memory loss/loss of cognitive function?

19. What tests are used to assess memory loss/loss of cognitive function?

20. Have MRI or CT scans been used before and after RESTRAINTS?

21. If so what was the conclusion?

22. How does the Trust plan to reduce restraints in the future?

Please provide SECLUSION information under the FOI act to the following questions: -

1. Please supply patient's information SECLUSION leaflet.

2. Please supply patient SECLUSION consent form.

3. Please supply any SECLUSION reports/investigations

4. How many SECLUSION in 2019?

5. What proportion of patients were men/women?

6. How old were they?

7. What were the diagnoses and in what proportions?

8. What proportion of patients were classified BAME?

9. How many were receiving SECLUSION for the first time?

10. How many patients consented to SECLUSION?

11. How many SECLUSIONS were investigated outside the NHS and CCG ?

12. How many patients died during or soon after SECLUSION and what was the cause (whether or not SECLUSION was considered the cause)?

13. How many patients died a few months after SECLUSION and what was the cause (whether or not SECLUSION was considered the cause)?

14. How many patients died by suicide within a few months of receiving SECLUSION (whether or not SECLUSION was considered the cause)?

15. How many patients have suffered complications during and after SECLUSION and what were those complications?

16. Have there been any formal complaints from patients/relatives about SECLUSION?

17. If so, what was their concerns?

18. How many patients report memory loss/loss of cognitive function?

19. What tests are used to assess memory loss/loss of cognitive function?

20. Have MRI or CT scans been used before and after SECLUSION?

21. If so what was the conclusion?

22. How does the Trust plan to prevent SECLUSION in the future?

Please provide MEDICATION ERRORS information under the FOI act to the following questions: -

- 1. Please supply patient's information MEDICATION ERRORS leaflet.***
- 2. Please supply patient MEDICATION ERRORS consent form.***
- 3. Please supply any MEDICATION ERRORS reports/investigations***
- 4. How many MEDICATION ERRORS in 2019?***
- 5. What proportion of patients were men/women?***
- 6. How old were they?***
- 7. What were the diagnoses and in what proportions?***
- 8. What proportion of patients were classified BAME?***
- 9. How many were receiving MEDICATION ERRORS for the first time?***
- 10. How many patients consented to MEDICATION ERRORS?***
- 11. How many MEDICATION ERRORS S were investigated outside the NHS and CCG?***
- 12. How many patients died during or soon after MEDICATION ERRORS and what was the cause (whether or not MEDICATION ERRORS was considered the cause)?***
- 13. How many patients died a few months after MEDICATION ERRORS and what was the cause (whether or not MEDICATION ERRORS was considered the cause)?***

14. How many patients died by suicide within a few months of receiving MEDICATION ERRORS (whether or not MEDICATION ERRORS was considered the cause)?

15. How many patients have suffered complications during and after MEDICATION ERRORS and what were those complications?

16. Have there been any formal complaints from patients/relatives about MEDICATION ERRORS?

17. If so, what was their concerns?

18. How many patients report memory loss/loss of cognitive function?

19. What tests are used to assess memory loss/loss of cognitive function?

20. Have MRI or CT scans been used before and after MEDICATION ERRORS?

21. If so what was the conclusion?

22. How does the Trust plan to prevent MEDICATION ERRORS in the future?