

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 October 2022

Public Authority: Royal Free Hospital NHS Foundation Trust

Address: Royal Free London Group Headquarters

Anne Bryans House

77 Fleet Road

London

NW3 2QH

Decision (including any steps ordered)

1. The complainant has requested information from Royal Free Hospital NHS Foundation Trust (the Trust) in relation to naso-gastric feeding. The Trust confirmed that it did not hold information falling within the scope of the request under section 1(1)(a) FOIA.
2. The Commissioner's decision is that the Trust does not hold any information falling within the scope of the request under section 1(1)(a) FOIA. However the Trust breached section 10(1) FOIA in the handling of this request as it failed to respond within the statutory time for compliance.
3. The Commissioner does not require the Trust to take any remedial steps.

Request and response

4. On 6 September 2021 the complainant wrote to Royal Free Hospital and requested information in the following terms:

"These are my 2 questions:

1. In the RFH's 2017/2018 Annual Complaints report; a Naso-Gastro Feeding Tube was inserted in a patient. However, it took too long to commence the feed.

The recommendations made by the RFH were: Get a Clinical Practice Educator to carry out an audit of NGT feeding documentation. In addition, if issues are found, implement training sessions.

DID A CLINICAL PRACTICE EDUCATOR CARRY OUT AN AUDIT OF NGT FEEDING DOCUMENTATION AND WHAT WAS THE OUTCOME AND CAN I PLEASE HAVE ANY DOCUMENTATION RELATING TO THIS?

IN ADDITION, DID ANY TRAINING SESSIONS TAKE PLACE REGARDING NGT DOCUMENTATION?

THE DATES I REFER TO ARE 01/01/2017-01/01/2019?

2. HOW LONG SHOULD IT TAKE FOR A FEED TO BEGIN; ONCE A NASO-GASTRIC TUBE HAS BEEN INSERTED?

I AM REFERRING TO A PATIENT THAT NEEDS AN X-RAY TO CONFIRM THE POSITION OF THE TUBE; AS AN ASPIRATE WAS NOT POSSIBLE?

This ends my questions.”

5. On 23 November 2021 the Trust responded. In relation to question 1, it explained that the relevant Matron and Ward Manager who were in post at the time had subsequently left the Trust (whom the Trust would have contacted to search for the requested information). However the Trust has conducted searches and has been unable to locate information relating to such an audit or subsequent training sessions. The Trust said that this did not necessarily mean that an audit or training sessions had not taken place however it was unable to locate any recorded information evidencing this. In relation to question 2 it confirmed that the Trust did not hold this information as there is no single answer – there are lots of variable factors as to how long it should take for a feed to begin and the Trust doesn't hold recorded information on the length of time the process takes. It also explained that it is not required to create information to respond to a FOIA request.
6. On 26 November 2021 the complainant requested an internal review as he was not satisfied with the response provided. He considers the Trust holds information relevant to the scope of the request.
7. The Trust subsequently provided the outcome of the internal review. In relation to question 1, it provided the complainant with a list of Teams and individuals within the Trust that the FOI Team had contacted and asked to search for the required information. This included:
 - The Clinical Governance Team
 - Lead Nurse Practice Development

- Interim Deputy Director of Patient Safety & Risk
 - Head of Patient Experience & Interpreting
 - Head of Quality Governance & QI Coach
 - Deputy Head of Quality Governance
 - Clinical Guidelines Officer
 - Lead Nurse Specialist Practice Nutrition
 - Lead Clinical Practice Educator
 - Clinical Practice Facilitator
8. The Trust confirmed that if the information was held it would fall within the remit of one of the Teams or individuals listed above. All Teams/individuals confirmed that they could not locate any recorded information falling with the scope of the request.
9. In relation to question 2, it said that this was sent to the Lead Nurse Specialist Practice Nutrition who confirmed that the time taken for this process is variable and not something that can be answered in minutes or hours. They did not hold any data or any further information on the time taken for this process. It went on that there is no set time that is written down in any Trust policies or guidelines so it confirmed that this information is not held.

Scope of the case

10. The complainant contacted the Commissioner to complain about the way the request for information had been handled.
11. The Commissioner's investigation has focussed on whether the Trust holds any information falling within the scope of this request under section 1(1)(a) FOIA.

Reasons for decision

Section 1

12. Section 1 (1) FOIA provides 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. The Commissioner has sought to determine whether, on the balance of probabilities, the Trust holds any information falling within the scope of this request.
 14. In relation to part 1 of the request, the Commissioner understands why the complainant may consider information should be held by the Trust. Indeed the Trust hasn't denied that an audit and subsequent training may have occurred however it cannot locate any recorded information evidencing this. However whilst the Trust has not been able to ask the relevant Matron and Ward Manager to search for the required information as they have subsequently left these posts, it has asked for searches to be conducted by the relevant Teams and individuals within the Trust as these are the areas, where if held, the information would be located. After searches were conducted by the relevant Teams and individuals, no recorded information was located falling within the scope of the request.
 15. Given searches have been undertaken within the relevant areas, the Commissioner does not consider that there are any further searches he could request the Trust to conduct in this case. It is not clear whether an audit and subsequent training took place, but if it did, in this case the Commissioner can only conclude that on the balance of probabilities the Trust was correct to confirm that there is no recorded information held evidencing this under section 1(1)(a) FOIA.
 16. In relation to part 2 of the request, the Trust has been clear that there is no recorded information setting out a specific time or timeframe in which a feed should begin. As there is no specific time frame it would appear that no recorded information would be held and therefore there are no searches the Commissioner can ask the Trust to conduct as this information simply does not exist. The Commissioner can only conclude that on the balance of probabilities the Trust was correct to confirm that there is no recorded information held under section 1(1)(a) FOIA.
 17. The Commissioner considers that on the balance of probabilities the Trust does not hold information falling within the scope of this request under section 1(1)(a) FOIA.

Section 10

18. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.

19. In this case the request which is the subject of this complaint was made on 6 September 2021 and a response was not provided until 23 November 2021.
20. The Commissioner finds that the Trust has breached section 10(1) by failing to respond to the request within the statutory time for compliance.

Right of appeal

21. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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
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Wycliffe House
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SK9 5AF