

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

### **Decision notice**

**Date:** 1 August 2023

**Public Authority:** NHS England  
**Address:** Quarry House  
Leeds  
LS2 7UE

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

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1. The complainant has requested information on the causes of serious incidents. The above public authority ("the public authority") denied holding the information.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority does not hold the requested information.
3. The Commissioner does not require further steps to be taken.

#### **Request and response**

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4. On 26 January 2023, the complainant wrote to the public authority and requested information in the following terms:

"Number of Serious incidents patients deceased in Emergency Ambulances due to Transfer-Delay Failure. In Oct 2017-March 2018, April 2018-Sept 2018. October 2018-March 2019 please. That would be the StEITS [sic] reporting portal from the South East Coast Ambulance Service NHS Foundation trust."

5. The public authority responded on 15 February 2023. It denied holding the requested information – a position it upheld at internal review.

## Reasons for decision

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6. Where there is a dispute over the amount of information held by a public authority, the Commissioner is only required to determine whether it is more likely than not that the public authority has identified the information it holds.
7. The public authority has explained that, whilst it may hold data that shows the **number** of serious incidents that have taken place at a particular trust, it does not hold the granular information that would show **where** an individual incident took place or **what** caused it. Without this granular information, it would be unable to isolate the specific data the complainant has asked for. The public authority has explained that such granular information would be held at individual trust level. The Strategic Executive Information System (StEIS) portal does not include the level of detail the complainant is seeking.
8. The complainant's argument is that the public authority is "the NHS in England" and as such, must hold all information held by any part of the NHS in England.
9. On the balance of probabilities the Commissioner prefers the public authority's position.
10. The "NHS" is not, as is often incorrectly assumed, a single entity. It is a constellation of integrated care boards, foundation trusts and private companies working together to deliver an overarching national service. As a matter of law, these bodies are all separate organisations for the purposes of FOIA. Just because information is held by an NHS body, it does not mean that it will be held by the public authority.
11. The Commissioner considers that the public authority has also explained what data is collected in the StEIS portal and why it would not meet the terms of the complainant's request.
12. The Commissioner recognises that serious incidents are, by definition, serious. However it is not his role to determine what data should be collected or which organisation(s) ought to be responsible for collecting and retaining it. His role is to determine whether, on the balance of probabilities, the public authority holds the requested information. The Commissioner is aware that the complainant has already made a similar request to the relevant trust and it may well be that that request is more productive.
13. On the balance of probabilities, the Commissioner is satisfied that this information is not held by the public authority.

## Right of appeal

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

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

15. 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.
16. 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 .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**