Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 November 2020

Public Authority: Barnet, Enfield and Haringey Mental Health NHS Trust

Address: St Ann's Hospital
London
N15 3TH

Decision (including any steps ordered)

1. The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so.

2. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA.

3. The Commissioner requires no steps to be taken.

Request and response

4. On 16 April 2020 the complainant made a request for information that contained 110 questions spread across five topics (electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors). Please see Annex A attached.

5. On 22 April 2020 the Trust responded. It refused to comply with the request under section 12 FOIA as it said that it would exceed the cost limit to do so. The complainant requested an internal review on 30 April 2020. The Trust sent the outcome of its internal review on 28 May 2020. It upheld its original position.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way the request for information had been handled.

7. The Commissioner has considered whether the Trust was correct to apply section 12 FOIA to the requests in this case and whether it complied with its obligations under section 16 FOIA.

Reasons for decision

Section 12 – cost exceeds appropriate limit

8. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:

- either comply with the request in its entirety, or
- confirm or deny whether the requested information is held.

9. 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 - 24 hours work for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:

(a) determine whether it holds the information
(b) locate the information, or a document which may contain the information
(c) retrieve the information, or a document which may contain the information, and
(d) extract the information from a document containing it.

10. The appropriate limit for the Trust is £450 or the equivalent of 18 hours work.

11. The Trust has broken the request up into five parts, 22 questions relating to electroconvulsive therapy, 22 questions relating to serious incidents, 22 questions relating to restraints, 22 questions relating to seclusion and 22 questions relating to medication errors.

12. In relation to all five subject areas, the complainant has asked 'what were the diagnoses and in what proportion?' The Trust confirmed it holds this information across all five subject areas and it has been located within the patient clinical records system (RiO). For all five parts of the request, to retrieve and extract this would require a query to be created by the Informatics department to pull out diagnoses. The Database Manager in the Informatics Department has advised that for an example of 150 patients it would take approximately 3 hours to create the query to run and then 10 minutes for the processing. As there were 34 patients who had ECT in 2019, 48 serious incident investigations, 270 patients who had restraints, 235 who had seclusions and 462 who had medication errors (1,049 patients total) the query production time would therefore take approximately 21 hours to produce.

13. The Trust has confirmed that the estimate is based on the quickest method of retrieval.

14. Given the number of patients relevant to the scope of this part of the request, just answering this question for each of the five subject areas would equate to 21 hours work exceeding the 18 hour cost limit. This would only answer 5 of the 110 questions within the request. The Trust has provided further estimates in terms of time and cost implications for other parts of the request so the total cost of compliance would be much greater.

15. Based upon the Trust's submissions, the Commissioner accepts that it would exceed the cost limit to comply with the requests and therefore section 12 was correctly engaged in this case.

Section 16 – Advice and Assistance

16. Under section 16 FOIA the Trust is obliged to provide the complainant with advice and assistance to help enable the complainant to refine the request to fall within the cost limit or explain why this would not be possible.

17. In this case the Trust said that it provided Section 16 advice and assistance to the complainant by informing her that it could obtain patient information leaflets and consent forms where held, numbers of individuals who had ECT/were restrained/secluded /had serious incidents completed/medication errors in 2019. The Trust advised the complainant that it could also look to obtain the data on gender and age demographics as well as ethnicity. The complainant however advised the Trust that she had decided to proceed with an internal review as the

request which she originally sent on 16 April 2020 could not be responded to in its entirety.

18. As the Trust has provided advice and assistance in this case, by explaining the parts of the request it could respond to within the cost threshold, it has complied with its obligations under section 16 FOIA.

Right of appeal

19. 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

20. 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.

21. 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

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

Annex A

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 SERIUOS 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?