

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 November 2022

Public Authority: London Ambulance Service NHS Trust

Address: Executive Office
Headquarters
220 Waterloo Road
London
SE1 8SD

Decision (including any steps ordered)

1. The complainant has requested London Ambulance Service NHS Trust (the Trust) to disclose information relating to its decision to restrict his contact with the Trust. The Trust disclosed the recorded information it holds falling within the scope of the complainant's request.
2. The Commissioner's decision is that on the balance of probabilities the Trust does not hold any further recorded information to that already provided. He has however found the Trust in breach of section 10 of FOIA.
3. The Commissioner does not require any further action to be taken.

Request and response

4. On 27 January 2022, the complainant wrote to the Trust and requested information concerning its decision to restrict his contact with the Trust. As the request is lengthy, it has been included as an annex to this notice.

5. The Trust did not respond, so the complainant contacted the Commissioner on 1 March 2022 to complain.
6. The Commissioner wrote to the Trust on 7 March 2022 to request that it responds to the complainant's request within 10 working days.
7. The Trust responded on 18 March 2022. It provided a response to each individual question and disclosed the recorded information it holds which falls within the scope of the request.

Scope of the case

8. The complaint was accepted for full investigation on 11 April 2022.
9. The Commissioner considers the scope of his investigation to be to determine whether, on the balance of probabilities, the Trust has disclosed all the recorded information it holds falling within the scope of the request. He will also address any procedural breaches of FOIA.

Reasons for decision

10. Section 1 provides a right of access to recorded information held by a public authority. It entitles the applicant to be informed in writing whether the public authority holds recorded information of the description specified in the request or not, and if it does, to have that information communicated to them provided it is not exempt from disclosure under Part II of FOIA.
11. FOIA does not extend to the right to ask questions, to receive explanations or debate the content of recorded information that is held, unless the answer to those specific questions or explanations is already held in recorded information. In reality this is often unlikely.
12. FOIA is also not the appropriate route to challenge or debate specific decisions a public authority may have taken about the complainant. For example, in this case, the complainant is unhappy that he has been placed on restricted contact and does not consider the Trust has followed its own policies and procedures in this regard. This is not something the Commissioner can comment on or investigate. This is not his remit. The Commissioner is limited to considering what recorded information a public authority holds, which falls within the scope of the complainant's request, and whether this can be disclosed.
13. In terms of recorded information in this case, the Trust has disclosed to the complainant two policies; its Managing Unreasonable Behaviour Policy and its Development and Implementation of Procedural

Documents Policy. The Trust has also gone beyond the requirements of FOIA and tried to provide a response to the specific questions the complainant has asked in his information request.

14. On the balance of probabilities the Commissioner is satisfied that the Trust will not hold any further recorded information to that already provided. The recorded information it has disclosed is what the Commissioner would expect a public authority to hold and indeed provide. He cannot see what further recorded information would be held.
15. He is therefore satisfied that the Trust has now met its obligations under section 1 of FOIA in this case.

Procedural matters

16. Section 10 of FOIA requires a public authority to respond to information requests promptly and in any event no later than 20 working days of receipt. It is noted that the Trust did not respond until 18 March 2022, which is after the 20 working days deadline. The Commissioner has therefore recorded a breach of section 10 of FOIA against the Trust.

Other matters

17. It is noted in the Trust's correspondence to the complainant that it is now refusing to respond to further correspondence on the subject matters raised in this request and previous ones. Section 17(6) of FOIA allows a public authority to do this but only when the public authority is relying on a claim that section 14 applies, it has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and it would be unreasonable in all the circumstances to expect the public authority to serve a further notice in relation to the current request.
18. The Commissioner is not aware of a previous section 14 notice in relation to an earlier request. It also complied with this particular request. The Trust cannot rely on section 17(6) until such a time that it has served a section 14 refusal notice, informed the complainant that it will rely on 17(6) in future for similar requests and then proceeds to receive another request on the same topic from the complainant.
19. The Commissioner would also like to point out that this is only applicable to FOIA. Under the Data Protection Act, where requests are made for the complainant's own personal data, there is no such facility.

Right of appeal

20. 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

21. 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.
22. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

The complainant's information request:

"The data I am seeking is listed below :-

An FOI request was made via your on line procedure last week but to date I have not received an acknowledgement. So as to ensure that there are no failures in your procedures and policy please take this request as an update and the required processing time will be 20 working days from receipt of this email with the exception of my request forwarded from your SAR team which was "Whether LAS is able to provide transcripts of the telephone conversations between the data subjects and LAS 999 Emergence Call Centre, if so when did it commence".

The restrictions imposed by [named redacted] "How to contact us" was raised several times with senior management as to whether it was LAS policy and legal, and where could it be located within LAS policy. There was no response.

***How to contact us**

Any further correspondence should be sent to the following email address:[redacted]. Any email sent to this address will be reviewed and, if the Trust considers it to raise new issues then it will be responded to in the usual way. Otherwise, it will be filed and no acknowledgement and/or response will be provided to you.

Please do not send further correspondence to any Trust email addresses other than the one identified above. Any correspondence sent from you to any Trust email address other than [redacted] , will be deleted without being opened and/or read.

***How to contact us- [name redacted] restrictions imposed upon a data subject. In this case me with full support of the Trust.**

*Please provide me with the following information:-

- 1) Is this LAS policy and where can it be found. If it is not LAS policy what exactly are the legality of these restrictions and how does the Trust Board support them.
- 2) What is the selection process in identifying the data subject.- As this has happened to me, please log the process and steps and any guidance to the data subject where this can be found. Is the data subject giving prior notice before the restrictions are implemented and the reasons. Support this statement as it is not LAS policy.

- 3) Restrictions placed upon the data subject – all correspondences directed to [redacted]. Supporting this statement is **LAS Legal Department.** **However, we may provide a single point of contact if you or we (or both) believe it will help to create a better outcome for all concerned.** The irony of this is **they have already implemented this procedure and are now asking me "If you or we or both".....** What exactly does this tell you about the efficiency of your Legal Department. *Support this statement as it is not LAS policy. (16) Shows the unreliability of the Legal department.*
- 4) Only new issues considered by the Trust would be addressed, Otherwise, it will be filed and no acknowledgement and/or response will be provided to the data subject. Support this statement as it is not LAS policy.
- 5) Do not send further correspondence to any Trust email addresses other than the one identified above. Support this statement as it is not LAS policy.
- 6) Any correspondence sent from you to any Trust email address other than [redacted], will be deleted without being opened and/or read. Support this statement as it is not LAS policy.
- 7) Could you please provide a flow process chart showing the steps in the design through to the implementing of this policy which would have been agreed by the Trust.
- 8) What level of management were involved in the design, approval and implementation of this process.
- 9) What management level is required to impose such restrictions.
- 10) Can you confirm that these restrictions were supported by the Trust Board. If not why not. This is what [named redacted] stated "[Name redacted], Head of Corporate Governance at the Trust, **we consider that we have complied with your Freedom of Information ("FOI") request and Subject Access Requests ("SAR") in full.** The findings of [name redacted] FOI investigation contradicts [name redacted] and [name redacted] statement and showed that they were unreliable. Please explain the statement made by the managers with supporting evidence.
- 11) These restrictions, in my view, was fully supported by the Trust and implemented by [name redacted], **Legal Services Manager (Solicitor)** Does she specialise in DP and FOI legislation and have the authority.- Refer to [name redacted] FOI findings.

12) Was the head of Legal Department involved in supporting the implementing of these restrictions. The release of a manager, [name redacted], Legal Services Manager (Solicitor) to assist [name redacted] (LAS Trust) in legal arguments on FOI legalisation, in my view, shows total involvement and support. *Please explain.*

13) The CEO and Head were made aware of these restrictions and accepted them as no action was taken until the results of the investigation by [name redacted] were disclosed. *Please explain.* [Name redacted] should be able to provide you with the answers as to whether she copied them all the information I requested. Evidence shows that she was selective which I believe achieved the desired output.

14) To get a better understanding of DPA and FOIA *the Director of Corporate Affairs* consulted LAS Legal Team and Hill Dickinson LLP. Does this not show that the Legal Team is not conversant with the wordings within the FOIA and DPA. *Please explain.*

15) In the last 5 years how many data subjects were isolated and subjected to the restrictions or similar conditions that was imposed upon me and the reasons.

16) These restrictions were imposed on both FOI requests and SAR's. [Name redacted] stated "[Name redacted], Head of Corporate Governance at the Trust, we consider that we have complied with your Freedom of Information ("FOI") request and Subject Access Requests ("SAR") in full. The findings of [name redacted] FOI investigation has shown both these employees statements and arguments were unreliable. – *Please explain the Trust Board support for these two managers and the manager responsible for compliance to the FOIA within LAS.*

May I once again remind you that LAS are accountable to the public as you all are paid from the Public Purse to which I contribute."