

Royal Free London Group Headquarters
Anne Bryans House
77 Fleet Road
London NW3 2QH

Dear William Wetherell

Re: Freedom of Information request – Internal Review

Reference: FOI 22/23 - 604

I am writing regarding the request reference detailed above under the Freedom of Information Act 2000 (FOI(A)), which was received by the Royal Free London NHS Foundation Trust.

Firstly, I was sorry to read that you felt you needed to make a complaint and I hope to address all your concerns. I am a senior manager within the department.

I have included a copy of the trust's initial response below for reference:

- 1. Any record of agreements (e.g. memoranda of understanding, mutual aid agreements) with local suppliers, vendors and utility companies / agencies to ensure procurement and delivery of essential medications, equipment and supplies during times of shortage or increased demand, as in the case of emergencies and disasters. (Can be answered yes / no.)**

Royal Free London NHS Foundation Trust does hold this information. The trust considers this information exempt from disclosure under *Freedom of Information Act 2000, Section 31(1)(a) (the prevention and detection of crime)*. This information would allow an attacker to identify which organisations may be better prepared for emergency situations. The attacker could then select their target based on which would have the greatest impact for a co-ordinated attack.

You requested an internal review, stating:

I am writing to request an internal review of Royal Free London NHS Foundation Trust's handling of my FOI request 'EPRR Logistics'. The Trust has refused my request, citing Section 31(1)(a) of the Freedom of Information Act.

My reasons for requesting an internal review are as follows:

1. I am only requesting information regarding the existence of any agreements and not the contents of the agreements themselves. My request can be answered with a 'yes' or 'no'.

2. To date over 100 NHS Acute Trusts have provided this information in reply to similar requests.

I have determined the scope of my investigation to be whether *section 31(1)(a) (law enforcement)* is engaged.

The Act

The Act states:

Section 1 (General right of access to information held by public authorities)

- (1) 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.*

Section 31 (law enforcement)

- (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—*
- (a) the prevention or detection of crime,*

The application of the exemption

As part of the internal review process, I considered the use of *section 31(1)(a)* in the response. I found that the trust's initial response was incorrect in stating that this information is held.

The EPPR team advised that if any supply chain mutual aid/support/memorandums of understanding exist, it would be an agreement between individual services and their suppliers.

Therefore, the trust would need to manually contact each service to ascertain whether they have entered into any such agreements.

The trust has 598 departments across 114 services. The trust estimates that to identify a service lead for each department and then contact them about the request, would exceed the appropriate limit set out in section 12(1) (cost limit) of the Freedom of Information Act 2000.

Therefore, the trust is unable to confirm whether it holds any such agreement. Please see a revised response below.

Please note that with regards to Point 2 of your internal review email (copied below for reference), it is beyond the scope of the trust's FOI obligations to comment on the practice of

other organisations. The responses of other trusts have no bearing on whether the trust can provide this information.

2. To date over 100 NHS Acute Trusts have provided this information in reply to similar requests.

Revised Response

- 1. Any record of agreements (e.g. memoranda of understanding, mutual aid agreements) with local suppliers, vendors and utility companies / agencies to ensure procurement and delivery of essential medications, equipment and supplies during times of shortage or increased demand, as in the case of emergencies and disasters. (Can be answered yes / no.)**

Royal Free London NHS Foundation Trust can neither confirm nor deny that the information is held under *Section 12(2)* of the *Freedom of Information Act 2000* (The Act) as the estimated cost of complying with *Section 1(1)(a)* (General right of access to information held by public authorities) alone would exceed the appropriate limit.

The trust has conducted searches and can find no record of any organisational-wide agreements. The trust would need to manually contact each department and service to ascertain whether they have entered into any local agreements with suppliers.

The trust has 598 departments across 114 services. The trust estimates that the following activities combined would exceed the appropriate limit set out in section 12(1) (cost limit) of the Act.

- Identifying a service lead for each department,
- Contacting each service lead about the request,
- Each service lead conducting searches of their department records.

Under the Section 16 duty to provide advice and assistance, the trust may be able to comply with a refined request. For example, you may wish to narrow the subject of the searches to any services or departments which are of particular interest to you. Please note that this is only a suggestion of what the trust may be able to provide and not categorically what it can provide within the prescribed cost limit.

You will need to resubmit any refined request via rf.foi@nhs.net.

Conclusion

The outcome of my internal review is that I do not uphold the trust's original decision to apply *section 31(1)(a)*. However, the cost of complying with the request would exceed the cost limit and therefore I find that Section 12 is engaged.

I hope that I have addressed all of your concerns, but please do not hesitate to contact me if you have any questions about this response.

The trust uses feedback it receives from applicants and learning identified through the internal review process to improve its services.

If you are still dissatisfied following this internal review, you have the right under Section 50 of the Freedom of Information Act 2000 to appeal against this decision by contacting the Information Commissioner. The Information Commissioner provides full and detailed guidance on the Freedom of Information Act and on when and how to complain.

Please find below the link to their website page and their helpline number.

<https://ico.org.uk/for-the-public/official-information/>

Helpline number: 0303 123 1113 or 01625 545745

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Winter', with a stylized flourish at the end.

Kevin Winter
Associate Director of Information Governance
Information Governance Directorate
Royal Free London NHS Foundation Trust
Anne Bryans House
77 Fleet Road, London, NW3 2QH