

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 September 2018

Public Authority: NHS England
Address: 2N22 Quarry Hill
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested figures from NHS England (NHSE) about a decision associated with a Population Health Management IG Support Tool work programme. At the date of this notice, NHSE has not provided a response to the request.
2. The Commissioner's decision is as follows:
 - NHSE has breached section 10(1) of the FOIA as it has not provided a response to the request within 20 working days.
3. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's request that complies with the FOIA.
4. NHSE must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. The complainant wrote to NHSE and requested information in the following terms:

"I would like to make a Freedom of Information request for all the data/information held by NHS England relating to the decision to exclude the eMBED Health Consortium and Optum from the Population Health Management IG Support Tool (PHMIGST) work programme.

To assist with the retrieval of this data I'd offer the following information:

I believe the decision was taken in early January 2018

The issue was on the agenda and discussed at length at the NHS England CSU IG Leads meeting held at Skipton House on 28th March. At this meeting it was noted that North of England Commissioning Support (NECS) had been tasked to deliver the PHMIGST to the Yorkshire & Humber area.

From the above information I would expect as a minimum the emails that relate to the issue from a fairly short time period, early January to now, from the senior Information Governance staff at NHS England to others involved in the decision. I'd expect to see the minutes from the meeting on 28th March and any other relevant document or minutes. I would expect details of the allocation of the PHMIGST task in Yorkshire & Humber to NECS, whether this be a contract, SLA or other document and confirmation of whether this work was allocated through the Lead Provider Framework (LPF) and if not why not."

6. NHSE first acknowledged the request on 27 April 2018. NHSE went on to provide a monthly update to the complainant but did not go on to provide a substantive response. The complainant has not provided the Commissioner with the date on which he submitted his request. He has, however, copied to her the text of NHSE's acknowledgement and interim responses. As such, the Commissioner is satisfied that NHSE had received the request at 27 April 2018.
7. The Commissioner wrote to NHSE on 20 August 2018 and asked it to provide a response to the request within 10 working days. On 17 September 2018 the complainant advised the Commissioner that he still had not received a response.

Scope of the case

8. The complainant first contacted the Commissioner on 10 August 2018 because he had not received a response to his request.
9. The Commissioner's investigation has focussed on NHSE's obligation under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

10. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the information and (b) to have the information communicated to him or her if it is held and is not subject to an exemption.
11. Section 10(1) says that a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. The complainant has been waiting over four months for a response to his request. This has therefore been a significant breach of section 10(1) on the part of NHSE.

Right of appeal

13. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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.
15. 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

Pamela Clements
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