

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 March 2017

Public Authority: NHS England
Address: 4N22 Quarry House
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information relating to payments made by NHS England (including CSUs and other business units) for 2014/15.
2. The Commissioner's decision is that NHS England (NHSE) has breached section 10 (time for compliance) of the FOIA.
3. Since this complaint was made NHSE has provided a response to the complainant and therefore the Commissioner does not require the public authority to take any steps.

Request and response

4. On 30 September 2016 the complainant wrote to NHSE and requested information in the following terms:

Please provide a list of payments made by NHS England for 2013/14, 2014/15 and 2015/16 to each of the companies listed below, detailing:

- *the invoice date*
- *the value of the payment*
- *the cost code / charge code (and details of what department/project that code relates to)*

- *an indication of whether the work was done in relation to the work of the Strategic Projects Team and (if not clear from the cost code) which SPT project the work was in relation to.*

Customer Innovation Ltd ([05968643](#))

Martin Peat Consulting (05220627)

ARK Commercial Consulting ([08426514](#))

T-Cat Consulting ([07634974](#))

EB Management Consultants ([05957085](#))

Fluffy Pink Sheep Ltd ([08062612](#))

Tunnel End (21015) ([09608002](#))

Tunnel End (2007) (06965479)

Actuate Management Ltd ([07983898](#))

BK Communications ([08753235](#))

Laude Consulting ([09165240](#))

B.A. Mallon Consultancy Ltd ([08497230](#))

The number in brackets is the Companies House registration number, in case there is any ambiguity over which companies I am referring to.

If you estimate that information covering the full three years would exceed the £450 cost limit then please provide the information for 2014/15 and 2015/16 only. If you still estimate the cost to exceed the limit then please provide the information for 2014/15 only. If you still believe that the cost limit would be exceeded then please provide the information for Q2, Q3 and Q4 2014/15. If you still believe that the cost limit would be exceeded then please provide the information for Q3 and Q4 2014/15. If you still believe that the cost limit would be exceeded then please provide the information for Q4 2014/15.

5. NHSE responded on 28 October 2016 and refused to provide the requested information (request ref: FOI-018109) citing section 12 (cost of compliance) of the FOIA as its basis for doing so.
6. The complainant wrote to NHSE the same day stating:

You will note that in my initial request made it clear that, if you felt either the scope of the request within the organisation or the initial

timeframe would breach the cost requirement set out in S12(1), there were a range of limitations to the scope that I was willing to accept. This was clearly included in the original request, but you have clearly failed to take it into account when considering the request and issuing the refusal notice.

7. On 2 November 2016 NHSE replied to the complainant stating it had assessed his correspondence as a refined request and explained its reasons for this. The complainant considered that NHSE should not have treated this communication as a new request, as he had outlined potential refinements in his original request.

8. The 'new' request was as follows:

Please provide a list of payments made by NHS England for 2014/15 to each of the companies listed below, detailing:

- *the invoice date*
- *the value of the payment*
- *the cost code / charge code (and details of what department/project that code relates to)*
- *an indication of whether the work was done in relation to the work of the Strategic Projects Team and (if not clear from the cost code) which SPT project the work was in relation to.*

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MP Health Projects Limited ([07938076](tel:07938076))

9. NHSE responded on 6 February 2017 and provided a spreadsheet containing the requested information.

Scope of the case

10. The complainant contacted the Commissioner on 1 December 2016 to complain about the way his request for information had been handled, specifically the time taken to respond.
11. The Commissioner considers the scope of this case to be to determine if NHSE has complied with its obligations under the FOIA.
12. The Commissioner has also considered whether NHSE was correct in concluding that the complainant's follow up correspondence of 28 October was a refined request.

Reasons for decision

Section 10 – time for compliance

13. The Commissioner considers that the complainant's request of 30 September contained the required clarification needed for NHSE to process his request and therefore she does not accept the later correspondence was a refined request.
14. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
15. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
16. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that NHSE did not respond to the complainant within the statutory timeframe in respect of this request.

17. NHSE did not respond to the request of 30 September 2016 until 6 February 2017 which is outside 20 working days. The Commissioner has also noted that even if she accepted NHSE's argument as to the refined request NHSE still responded outside of the 20 working days.

Conclusion

18. The Commissioner's decision is that NHSE did not deal with the request for information in accordance with the FOIA. In this case NHSE has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days.

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@hmcts.gsi.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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF