

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 August 2017

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

Decision (including any steps ordered)

1. The complainant has requested staff surveys. NHS England confirmed that it would release the requested information but, at the date of this notice, has not done so.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA because it has not communicated the information it holds to the complainant within 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
 - Release to the complainant the information that it holds that the complainant requested on 26 April 2017.
4. The public authority must take these steps 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. On 26 April 2017, the complainant wrote to NHS England and requested information in the following terms:

"Under the Freedom of Information Act, please send me full Staff Survey results for NHS Improvement staff. I would like results for the 2016 survey.

If the survey was conducted separately for Monitor and the NHS TDA in 2016, please send me those results, plus the survey results from 2013, 2014, and 2015. If that is too much work, please come back to me to let me know what is feasible.

For information: the Staff Survey is a standard survey carried out across the NHS every year. The results for NHS trusts are published here

<http://www.nhsstaffsurveys.com/Page/1056/Home/NHS-Staff-Survey-2016/> but I don't believe the results for NHS Improvement are in the public domain."

6. In emails to the complainant dated 25 May 2017 and 2 June 2017 NHS England acknowledged to the complainant that its response to his request would be delayed.
7. In correspondence to the complainant dated 5 June 2017, NHS England confirmed that it holds some of the information that the complainant had requested and would release this to him electronically.

Scope of the case

8. The complainant contacted the Commissioner on 6 June 2017 to complain that he had not received the information he had requested.
9. The Commissioner wrote NHS England on 12 June 2017, 29 June and 10 July 2017 and asked it to provide a response to the complainant's request.
10. No response has been forthcoming and the Commissioner has considered whether NHS England has complied with its duty under section 10(1) of the FOIA.

Reasons for decision

11. Section 1(1) of the FOIA says that 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.
12. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt.
13. In this case, the complainant submitted his request on 26 April 2017. On 5 June 2017 NHS England confirmed to the complainant that it holds some of the information he has requested and indicated it would release this information electronically. It has not, however, communicated this information to him within the 20 working day deadline. The Commissioner has therefore found that NHS England has breached section 10(1).

Right of appeal

14. 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

15. 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.
16. 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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