

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2019

Public Authority: NHS Commissioning Board (NHS England)

Address: 4N22 Quarry House

Quarry Hill

Leeds

LS2 7UE

Decision (including any steps ordered)

1. The complainant has made a request for information relating to contracts and change form. Despite the intervention of the Commissioner, NHS England has not provided a response to the request in accordance with the FOIA.
2. The Commissioner's decision is that NHS England has failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - NHS England must provide the complainant with a response to the request in accordance with its obligations under the FOIA.
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 17 October 2018, the complainant wrote to NHS England and requested information in the following terms:

"With regard to NEL CSU, under the Freedom of Information Act 2000, I request as follows:

- 1. Provide the number of contracts that mention [redacted name 1] for the last 3 years and categorise by contractor/company name, job title of contract approver, total paid, details of work done, contract start date, contract finish date and indicate whether the Oracle Requisitions state the name [redacted name 2] for example on the order information?*
 - 2. Provide the number of contracts that mention John White PM Ltd for the last 3 years and categorise by contractor/company name, job title of contract approver, total paid, details of work done, contract start date and contract finish date and indicate whether the Oracle Requisitions state the name [redacted name 2] for example on the order information?*
 - 3. Could you provide the number of contracts that mention 'John White PM Ltd' and [redacted name 1] that have been authorised by the ICT Directorate for the last 3 years and categorise by contractor/company name, job title of contract approver, total paid, details of work done, contract start date and contract finish date (if available)?*
 - 4. Could you provide the number of contracts that mention 'Keystream Healthcare Resources Ltd' for the last 3 years including to date and categorise by contractor/company name, job title of contract approver, total paid, details of work done, contract start date, contract finish date and indicate whether the name [redacted name 1] is mentioned on the contract?*
 - 5. On which date and which job titled signed the staff and establishment change form for the job title of Head of Business Management for the change of band from 8a to 8c?*
 - 6. On which date and which job titled signed the staff and establishment change form for the job title of Head of Commercial and Business Support?*
 - 7. How many members of staff does the job title of Head of Commercial and Business Support line manage?"*
6. The complainant has stated that he has not received a response to his request for information.

Scope of the case

7. The complainant contacted the Commissioner on the 21 November 2018 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether NHS England dealt with the request in accordance with its obligations under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

9. Section 1(1) of FOIA states any person making a request is entitled to be told whether the information they have asked for is held and, if so, to have that information communicated to them, subject of course to the application of any exemptions that are appropriate.
10. Section 10(1) states that a public authority shall respond to information requests promptly and in any event no later than 20 working days from receipt.
11. The request in question was made on 17 October 2018, therefore NHS England should have provided its response to the request in compliance with section 1(1) of the FOIA by no later than the 14 November 2018.
12. On 1 December 2018, the Commissioner wrote to NHS England advising it to respond to the request within 10 working days. She provided NHS England with a copy of the request and asked NHS England to state in its response whether or not the requested information was held and, if held, to either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA. She also provided links to her Guide to Freedom of Information, and guidance issued in respect of the time in which a response to a request for information should be provided.
13. On 4 December 2018, NHS England wrote to the Commissioner advising that it was working to the deadline she had set.
14. On 20 January 2019, the complainant confirmed to the Commissioner that he has still not received a response to the request.
15. It is clear to the Commissioner that, in this case, NHS England has failed to respond to the request in accordance with the legislation. The

Commissioner therefore finds that NHS England breached section 10(1) of the FOIA in failing to respond to the request within 20 working days.

Right of appeal

16. 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

17. 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.
18. 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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