

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 June 2016

Public Authority: NHS England
Address: Southside
105 Victoria Street
London
SW1E 6QT

Decision (including any steps ordered)

1. The complainant has requested information relating to the transfer of medical records between NHS parties.
2. The Commissioner's decision is that in failing to respond to this request NHS England has breached section 10(1) of the FOIA.
3. The Commissioner requires NHE England to take the following steps to ensure compliance with the legislation.
 - Respond to the request of 31 October 2015
4. NHS England 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 16 September 2015 the complainant made a request for information in the following terms:

"..within the terms of the Freedom of Information Act (FoIA) – following request for information that I believe NHS England may possibly hold in relation to the following two organisations (A and B)

The two organisations are:

*A NHS England South London Primary Care Support Services
First Floor Cantilever House
Eltham Road
London SE12 8RN*

And

*B NHS England – London Region
4th Floor Southside
105 Victoria Street
London SW1E 6QT*

The information I require in relation to EACH of the above (A and B) organisations is as follows:

Each of the organisations individual Data Protection Register Registration Numbers.

The dates of their individual Registration with the Information Commissioners Office.

The dates their individual Registrations expires of date(s) the organisation(s) informed the Information Commissioners Office they wished to deregister/ceased trading.

Nature of work – in relation to use of personal data.

Description of processing - *in relation to processing of personal data.*

Reasons/purposes for processing information - *information in relation to personal data.*

Who the information is processed about - *information in relation to personal data.*

Who the information is processed about - *information in relation to personal data.*

Who the information may be shared with - *information in relation to personal data.*

CCTV – Crime Prevention and/or Staff Monitoring - in relation to personal data.

Undertaking Research – in relation to the use of personal data.

Transfers of data – in relation to transfer of personal data.

If one, other or both organisations (A and B) above were at anytime or are indeed known to NHS England and one other or both of them has to NHS England's knowledge stopped controlling and/or processing personal data then I would also like to be informed where and to whom (address and name) the personal data they (A and B) controlled and/or processed has been transferred.

6. On 14 October 2015 NHS England wrote to the complainant requesting further clarification with regard to point 12. It further stated that it did not hold any information with regard to points 3 and 13. However, NHS England provided links to the Information Commissioner's website and the register of data controllers, and NHS England's Fair Processing Notice.
7. On 14 October 2015 the complainant wrote again to NHS England. It is not however necessary to provide details of the correspondence letter for the purposes of this decision notice.
8. On 31 October 2015 the complainant wrote once again to NHS England requesting:

3. I therefore request information that explains when, if they have been, the ICO were informed or advised A and B were/are 'Other Names' used by The NHS Commissioning Board (NHS England).

7. What I have not however been informed of – in addition to the previous points – is whether as a result of office A closing my NHS GP records have been transferred just once, or whether they have once again been transferred, or passed around like something on YouTube and/or Twitter. Therefore I request the following information:

i) When, (the date(s) on which my GP records have been (if they have in fact been) transferred.

ii) where (the address(es) my NHS GP records have been (if they have in fact been) transferred)

iii) To whom (the name(s) of the person(s) or service provider(s) my NHS GP records have been (if they have in fact been) transferred and

iv) Who (the name(s) of all of the person(s) and/or service provider(s)) are now responsible and accountable for my NHS GP records and for the confidentiality and security of my NHS GP records.

9. The complainant wrote to NHS England on 2 December 2015 requesting an internal review of the handling of his request dated 31 October 2015

which remains unanswered. It is this request to which the decision notice refers.

Scope of the case

10. The complainant initially contacted the Commissioner on 26 January 2016 to complain about the way his requests for information had been handled.
11. Following further correspondence with the complainant the Commissioner established that there were a number of areas of concern. However, these have been addressed separately and do not form part of this decision notice. As stated above this notice solely relates to the handling of the request dated 31 October 2015.

Reasons for decision

Section 1 of the FOIA

12. 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.

Section 10 of the FOIA

13. Section 10(1) of the FOIA states "*...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.*"
14. In this case NHS England has breached section 10(1) by failing to respond to the request within 20 working days.
15. As stated at paragraph 3 above NHS England is now required to respond to the complainant's request in accordance with the FOIA.

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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