

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 July 2017

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

### Decision (including any steps ordered)

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1. The complainant has requested copies of reports relating to investigations into NHS Shared Business Services postal services. NHS England has failed to respond to this request.
2. The Commissioner considers that NHS England breached section 10(1) FOIA in the handling of this request.
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 this request in accordance with its obligations under 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

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5. On 14 March 2017 the complainant made the following request to NHS England:

"I refer to the Written Answer of Nicola Blackwood MP dated 10 March 2017 to Commons Written Question 66335 "NHS Shared Business Services: Postal Services" (Jonathan Ashworth MP).

In this context, Ms Blackwood mentioned an investigation by NHS England's Internal Audit Team which was launched on 1 April 2016.

I would like to request access to the report of this investigation ("the First Request"). If there was one or several interim or partial reports besides the final report, please provide access to all. Please provide annexes or appendices if applicable.

Ms Blackwood further mentioned that NHS Shared Business Services (NHS SBS) had itself carried out a full investigation into the incident. I am fully aware that NHS SBS itself is not subject to the Freedom of Information Act 2000. However, I assume that NHS England has received a copy of the report of the investigation conducted by NHS SBS and holds this in its files. Hence, I also request access to the report of the NHS SBS Investigation ("the Second Request"). If there was one or several interim or partial reports besides the final report, which were given to NHS England by NHS SBS, please provide access to all. Please provide annexes or appendices if applicable and if these were given to NHS England.

Please provide a short acknowledge of receipt for this request. I look forward to hearing from you, many thanks in advance for your response."

6. NHS England has not responded to this request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 8 June 2017 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether NHS England dealt with this request in accordance with its obligations under section 10(1) FOIA.

### **Reasons for decision**

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9. Section 10(1) provides that:

*"Subject to subsections (2) and (3), 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."*

10. Section 1(1) provides that:

*“Any person making a request for information to a public authority is entitled –*

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and  
(b) if that is the case, to have that information communicated to him.”*

11. The request was made on 14 March 2017 and a response has not yet been provided. The Commissioner therefore finds that NHS England breached section 10(1) in failing to respond within 20 working days.

## Right of appeal

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12. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. 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.
14. 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 .....**

**Gemma Garvey**  
**Senior Case Officer**

**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**