

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 August 2017

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 requested information relating to commissioning expenditure. NHS England has failed to respond to this request.
2. The Commissioner considers that the 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.
 - The 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

5. On 2 January 2017 the complainant made the following request to NHS England:

"1. Total expenditure outturn for each CCG for 2013-14, 2014-15 and 2015-16, broken down by all the spending categories used in routine planning/reporting. Please provide information for all categories held,

but as an indication to include the categories used in the attached illustrative file (CCG_FOI_PlanSummary_V1), including: Acute, Mental Health, Community, Continuing Care, Primary Care, Other Programme, Total Programme Costs. Please include other categories in addition if they are held as part of routine planning/reporting.

In case of queries about the sourcing and format of this information, similar categories have been used in some information published by NHS England, for example: <https://www.england.nhs.uk/wp-content/uploads/2015/10/ccg-plans-publication.xlsx>

Some similar information is also provided in the NHS England mental health dashboard, relevant only to mental health spend in one year, published by the organisation during autumn 2016.

2. Total expenditure outturn at a national NHS England group-level for 2013-14, 2014-15 and 2015-16, broken down by all the spending categories used in routine planning/reporting as outlined above. Please provide, if held, a national breakdown for both a) All NHS England group (including CCGs) expenditure and b) expenditure by CCGs.

3. Planned expenditure outturn for each CCG, and for the NHS England group-level, for 2016-17, broken down by all the spending categories used in routine planning/reporting as outlined above."

6. NHS England has not responded to this request.

Scope of the case

7. The complainant contacted the Commissioner on 29 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

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 2 January 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

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

Website: 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

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Wilmslow
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