

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 November 2018

Public Authority: NHS England
Address: 2N22 Quarry Hill
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. Through 14 requests the complainant has requested ICT-related financial and contract information from NHS England (NHSE). At the date of this notice NHSE has not provided a response to the requests.
2. The Commissioner's decision is as follows:
 - NHSE has breached section 10(1) of the FOIA as it has not provided a response to the requests within 20 working days.
3. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's requests that complies with the FOIA.
4. NHSE must take this step 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 July 2018, the complainant wrote to NHSE and requested information in the following terms:

"1. Could you provide details of money spent on third-party agencies, companies and contractors employed within ICT department for the period 1st April 2016 to 31st March 2018 and categorise by company name and the job title the company/contractor reports to at NELCSU?"

2. Could you provide details of the number of and the money spent on contractors employed within ICT department for the period 1st April 2016 to 31st March 2018 and categorise by ethnicity and the job title the contractor reports to at NELCSU?"

3. Could you provide details of money paid to "Pine Tree Technical Services Ltd" for the period 1st April 2017 to 31st March 2018 and categorise by type of work completed?"

4. Could you provide details of money paid to "TM Management Solutions Limited" for the period 1st April 2017 to 31st March 2018 and categorise by type of work completed?"

5. Could you provide details of money paid to "TM Management Solutions Limited" for the last 4 years and categorise by month/year?"

6. Could you provide details of money paid to "Keystream Healthcare Resources Ltd" for the last 4 years and categorise by month/year?"

7. Could you provide the job title that signed off the Supplier (3rd Party) contract, contract date and details of the contract value, services and output provided of each of the Supplier Names (third party contracts) on the Digital Outcome and Specialists Framework (Digital Marketplace) delivering services for ICT Directorate since 2016?"

8. Could you forward a copy of the following items:

a) [Redacted]'s completed Declaration of Interest form and NHS interests register form?"

b) [Redacted]'s completed Declaration of Interest form and NHS interests register form?"

c) "Pine Tree Technical Services Ltd" or any other contractor employed by "Pine Tree Technical Services Ltd" completed Declaration of Interest form and NHS interests register form?"

d) [Redacted]'s completed Declaration of Interest form and NHS interests register form?

e) [Redacted]'s completed Declaration of Interest form and NHS interests register form?

f) "John White PM Ltd" or any other employees employed by "John White PM Ltd" undertaking work at NELCSU, Declaration of Interest form and NHS interests register form?

9. With regards to the Consultation commencing on 2 February 2018 and outcome, could you provide clarity of which job title(s) were responsible for the Consultation outcome document, if possible categorise by directorate?

10. For the period 1st April 2017 to 31st March 2018, could you provide details of the daily rate, for each contractor who is employed in the ICT directorate and categorise by, ethnicity and the job title, provide details of which member of staff the contractor reports to at NELCSU and indicate whether there is a contract end date, if so, specify (contract end date)?

11. For the period 1st April 2016 to current date and in relation to the ICT directorate, could you provide the name of the companies that provide managed services?

12. With respect to point 11 for each provider (of managed service) could you specify the period of the contract (managed service), value of contract and details of which job title authorised/signed off the contract?

13. Could you provide details of money spent on "John White PM Ltd" and categorise by the type work/projects undertaken for the last 3 years?

14. NELCSU has currently made changes to the ICT Directorate as follows:

[Redacted] sent an email dated 27th June 2018 on behalf of [Redacted] and [Redacted] commenting as follows: '[Redacted] will assume responsibility for development of sustainable longer term solutions, including responsibility for new business / growth. [Redacted] will assume interim leadership of day to day, business as usual, operational activities'.

With regards to aforementioned comments I request as follows:

- a) Could provide you a copy of the Job evaluation form and job description for the former ICT Director's new role?*
- b) Could you provide a copy of the Job evaluation form and Job Description for ICT Directorate role that will 'assume interim leadership of day to day, business as usual, operational activities'?"*
6. NHSE acknowledged the requests on 4 July 2018. The complainant did not go on to receive a response to the requests and submitted a complaint to the Commissioner.
7. The Commissioner wrote to NHSE on 15 October 2018 and asked it to provide a response to the complainant's requests within 10 working days. On 14 November 2018 the complainant advised the Commissioner that she still had not received a response.

Scope of the case

8. The complainant first contacted the Commissioner on 8 October 2018 because she had not received a response to her requests.
9. The Commissioner's investigation has focussed on NHSE's obligation under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

10. Under section 1(1) of the FOIA 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 and is not subject to an exemption.
11. Section 10(1) says that a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. In this case the complainant has now been waiting over four months for a response to her requests. This has therefore been a significant breach of section 10(1) on the part of NHSE.

Right of appeal

13. 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

14. 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.
15. 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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