

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 February 2019

Public Authority: NHS England
Address: PO Box 16738
Redditch
B97 9PT

Decision (including any steps ordered)

1. The complainant requested information from NHS England about further details of each contract in relation to services provided by Health@Work between 2013 and 2016.
2. The Commissioner's decision is that NHS England failed to respond to the request within 20 working days and therefore breached Section 10 of the FOIA.
3. The Commissioner requires NHS England to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA
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 23 August 2018, the complainant wrote to NHS England and requested information in the following terms:

"Thank you for responding to my previous Freedom of Information request, which was supplied to me on 11 June 2018 stating:

Health@Work previously provided services between 2013 to 2016, which included primary care health & safety and occupational health services and occupational health referrals.

Please could you let me know further details of each contract, including the dates, values and specific work carried out?

If you need to, you can treat this as a further FOI."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 15 January 2019 to complain about the failure by NHS England to respond to her request.
8. The Commissioner has considered whether NHS England has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states 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.

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*
11. On 18 January 2019 the Commissioner wrote to NHS England, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

12. Despite this intervention NHS England has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that NHS England did not deal with the request for information in accordance with the FOIA. The Commissioner finds that NHS England has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

14. 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

15. 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.
16. 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

Ben Tomes
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Wilmslow
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