

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 May 2022

Public Authority: NHS Improvement
Address: Skipton House
80 London Road
London
SE1 6LH

Decision (including any steps ordered)

1. The complainant requested from NHS Improvement copies of correspondence between Emily Lawson and Baroness Michelle Mone since March 2020 relating to personal protective equipment. By the date of this notice NHS Improvement had not issued a substantive response to this request.
2. The Commissioner's decision is that NHS Improvement has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires NHS Improvement to take the following step to ensure compliance with the legislation.
 - NHS Improvement must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The NHS Improvement 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 25 February 2022, the complainant wrote to NHS Improvement and requested information in the following terms:

“Under the Freedom of Informa/on Act I would like to request the following information:

Copies of any correspondence, including letters and emails, between Emily Lawson and Baroness Michelle Mone since March 2020 relating to personal protective equipment sold to the government by the company PPE Medpro.”

6. NHS Improvement acknowledged the request on 1 March 2022. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 8 April 2022 to complain about the failure by NHS Improvement to respond to their request.
8. The Commissioner has considered whether NHS Improvement 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 20 April 2022 the Commissioner wrote to NHS Improvement, 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 Improvement has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that NHS Improvement did not deal with the request for information in accordance with FOIA. The Commissioner finds that NHS Improvement 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 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@justice.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

Michael Lea
Team Manager
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Water Lane
Wilmslow
Cheshire
SK9 5AF