

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2024

Public Authority: NHS England
Address: Quarry House
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested from NHS England information about the cost of its review into North East Ambulance Service NHS Foundation Trust. NHS England responded to the request and provided answers to all of the questions asked.
2. The Commissioner's decision is that, on the balance of probabilities, NHS England has identified and provided all the information within the scope of the request. NHS England has complied with section 1(1) and 10(1) of the FOIA.
3. The Commissioner does not require any further steps to be taken.

Request and response

4. On 5 July 2023, the complainant wrote to NHS England and requested information in the following terms:

"How much has the NHS England review into the North East Ambulance Service NHS Foundation Trust cost in relation to :

- 1 - Legal Fees
- 2 - Travel & accommodation cost
- 3 - Commissioning Cost

The FOIA 2000 states that all requests for information to be dealt with in 20 working days. Should my request exceed the costs/time allowed by the act, I ask that you provide me some advice and assistance in order that I might refine my request.”

5. On 2 August 2023, NHS England responded to the request. It confirmed holding all of the information and provided answers to each of the questions. In regard to point 3, it confirmed that the total commissioning cost was £197,768. It also said that it is unable to disaggregate ‘internal commissioning support costs’.
6. On 5 August 2023, the complainant wrote to NHS England and asked it to carry out a review of the request in regard to its response to point 3. He disagreed that it was unable to disaggregate internal support costs.
7. On 31 August 2023, NHS England carried out a review of the request and wrote to the complainant upholding its original decision. It said that it ‘is unable to disaggregate the costs associated with commissioning support as this is not recorded’. It said that no single individual was employed to provide this support, which, was on an as required basis. It said that FOIA only applies to recorded information held at the time of the request and that it is not required to create new information.

Scope of the case

8. The complainant contacted the Commissioner on 2 September 2023 to complain about the way his request for information had been handled. Specifically that NHS England had not provided all the information within the scope of point 3 of the request and that it failed to provide its response within 20 working days.
9. The Commissioner has considered whether NHS England has identified and disclosed all the information within the scope of the request and whether it provided a response within the required timeframe.

Reasons for decision

10. Under section 1(1) of FOIA a public authority must (a) confirm whether they hold the recorded information an applicant has requested and (b) communicate the information to the applicant if it’s held and isn’t exempt information.

11. Section 10(1) obliges a public authority to comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. The Commissioner has reviewed the request, the disclosed information and made enquiries with NHS England.
13. The Commissioner notes that at point 3 of the request, the complainant specifically asked for the 'Commissioning cost'. He notes that NHS England provided the total commissioning cost (£197,768), that the complainant has not raised any concerns about the total commissioning cost provided, and that the complainant did not in fact ask for disaggregated 'internal commissioning support costs' under point 3 of the request.
14. The Commissioner notes that it was only when NHS England offered information about the fact that it cannot disaggregate support costs that the complainant took issue with this fact. He also notes NHS England's explanation as to why the information is not held, i.e. that there is no recorded information held because no single individual was employed to provide support, which, was on an as required basis.
15. The Commissioner is therefore satisfied that, through the information it has disclosed in response to point 3 of the request, NHS England has identified and disclosed all the information within the scope of the complainant's request and, on the balance of probabilities, holds no further relevant information. The Commissioner's decision is therefore that the NHS England has complied with section 1(1) of FOIA.
16. In respect of timeliness, the complainant submitted their request on 5 July 2023 and NHS England responded to it on 2 August 2023. There was therefore no breach of section 10(1) of FOIA

Right of appeal

17. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
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SK9 5AF