

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 August 2016

**Public Authority:** NHS Commissioning Board (NHS England)  
**Address:** 4N22 Quarry House  
Quarry Hill  
Leeds  
LS2 7UE

### Decision (including any steps ordered)

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1. The complainant has requested information relating to a contract recently awarded to Capita by NHS England to provide services under the general heading of Primary Care Services England (PCSE). NHS England has failed to respond to this request for information.
2. The Commissioner considers that 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.
  - 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

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5. On 29 April 2016 the complainant made the following request to NHS England:

"I understand that Capita have recently been awarded a contract by NHS England to provide services under the general heading of Primary Care Services England (PCSE). In particular, I am interested in that area of the service which is responsible for receiving/checking/making payment to optical practices for the provision of General Ophthalmic Services....ie paying opticians for providing NHS Eye Tests and Optical Appliances.

I would like to know;

1. How long this contract is for?
  2. What is the annual cost of the contract?
  3. Can I have a copy of the quality criteria by which the performance of this service is being measured?
  4. I would like to know what provision is made within the terms of the contract where specified levels of performance/service are deemed not to have been met?
  5. I would like to know the name and contact details of the person or office that is responsible for monitoring the performance of this contract with Capita?"
6. NHS England has not provided a response to this request.

## Scope of the case

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7. The complainant contacted the Commissioner on 3 August 2016 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

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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 29 April 2016 and a response is yet to be provided. The Commissioner therefore finds that NHS England breached section 10(1) in failing to respond within 20 working days.

## Right of appeal

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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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**

**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**