

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 November 2016

**Public Authority:** NHS Commissioning Board (NHS England)

**Address:** 4N22 Quarry Hill  
Leeds LS2 7UE

### Decision (including any steps ordered)

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1. The complainant has requested information on an investigation of a complaint.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA because it did not provide a response to the request within 20 working days. NHS England has now responded and the Commissioner does not require it to take any further steps.

### Request and response

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3. On 15 May 2016, the complainant wrote to NHS England and requested information in the following terms:

*"Please provide me with the following information and/or documentation within the timescale stipulated in your procedure and in law*

*1). The full report provided to you in writing by [Named Individual] regarding her investigation of my complaint*

*2). All and any drafts of this or any other related report, corrected versions, notes, interview notes*

*3). All emails between [Named Individual] and [Named Individual 2] from the start of the investigation both received and sent*

*4). All emails to and from [Named Individual] and you during this investigation from 28 March 2016 to 15 May 2016*

- 5). *All emails to and from all other parties supposedly spoken to in respect of this investigation*
- 6). *All notes of telephone calls, dates of calls, time of call and full content*
4. NHS England sought clarification of the request on 7 June 2016, which the complainant provided on the same day. He clarified the nature of the notes to which he referred in Q2 of the request and confirmed that Q5 included emails sent from the start of the investigation in question, between the parties who were spoken to.
5. NHS England provided a response to the request on 5 September 2016.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 22 August 2016 to complain about the way his request for information had been handled. At that point he had not received a response from NHS England.
7. The Commissioner's investigation has focussed on NHS England's obligations under section 10(1) of the FOIA.

### **Reasons for decision**

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8. Section 1(1) of the FOIA says that anyone making a request for information is entitled to be told by a public authority whether it holds the information and, if it does, to have that information communicated to him or her, subject to any exemption being applied.
9. Section 10(1) says that an 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. In cases where the authority is unsure what information is being requested, the time for compliance will not begin until the authority has received the necessary clarification to allow it to answer the request.
11. In this case, the complainant clarified his request on 7 June 2016. A response was due by 6 July 2016 but NHS England did not respond to the clarified request until 9 September 2016. This is a clear breach of section 10(1).

## 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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**