

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 February 2018

Public Authority: NHS England
Address: 4N22 Quarry House
Quarry Hill
Leeds LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information about handling of 'Serious Incident Requiring Investigation' telephone calls. NHS England has acknowledged the request but at the date of this notice has not provided a response.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA because it has not complied with section 1(1) within 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's request of 23 November 2017.
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

5. On 23 November 2017 the complainant wrote to NHS England and requested information in the following terms:

"I want to make this request answerable. Therefore, I have amended my original request considerably. I would like to be provided with:

*1. "Records of *NHS 111 call handlers involved in a **Serious Incident Requiring Investigation (SIRI) in England, from ***23 November 2016 to present.*

2. I would like the information in Excel or CSV file format listing:

- 1. The date the SIRI was declared*
- 2. The NHS regional authority responsible*
- 3. The reason*
- 4. Whether the call handler was an employee of an agency or a substantive (NHS) employee*
- 5. Whether the call handler was dismissed, suspended, or returned to their role*

**Note: Excluding the telephone triage and advice services (NHS Direct, NHS24, and local GP out-of-hours services) that NHS 111 replaced.*

***Note: by "SIRI" I mean SIRI, "serious incident", and "serious untoward incident". These terms are often used interchangeably.*

****Note: I appreciate that roll-out of NHS 111 across England was regional and the transition was not completed until February 2014. I have chosen this date to encompass the history of all NHS 111 services.*

Note: I do not require the identity of any staff members, nor any personal details.

Please note. In your response you said that, based on three years of records, it would take at least 50 hours to locate and extract information relevant to your request. I have shortened my time-frame to just one year, which, according to your calculations, should take around 16.6 hours to complete (50 divided by 3).

Example

01/04/2017, X (responsible authority), unexpected or avoidable death of one or more people caused by handling the call incorrectly, agency, returned to role"

6. NHS England acknowledged the request on 21 December 2017 and subsequently has sent to the complainant a series of communications, acknowledging that its response is delayed.
7. The Commissioner wrote to NHS England on 29 January 2018 and requested that it provide a response to the complainant's request within 10 working days. On 2 February 2018 the complainant advised the Commissioner that he had received correspondence from NHS England advising him that it would provide a further update on his request on or before 16 February 2018.

Scope of the case

8. The complainant contacted the Commissioner on 19 January 2018 to complain that he had not received a response to his request.
9. The Commissioner has considered whether NHS England has complied with its duty under section 10(1) of the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled a) to be told whether the authority holds the information and b) to have the information communicated to him or her if it is held.
11. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt.
12. In this case, the complainant submitted his request on 23 November 2017. More than three months later, NHS England has still not provided a response to the request. This is a clear breach of section 10(1).

Right of appeal

13. 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

14. 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.
15. 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

Andrew White
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