

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 September 2021

Public Authority: The NHS Commissioning Board (NHS England)

Address: Quarry House
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant requested from the NHS Commissioning Board ("NHS England") information relating to NHS dental services. By the date of this notice NHS England had not provided a substantive response to this request.
2. The Commissioner's decision is that NHS England has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires NHS England to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. NHS England 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 21 June 2021, the complainant copied NHS England into an email to NHS Midlands and Lancashire Commissioning Support Unit ("MLCSU") and stated: "*I am copying in NHS England so they also have the same set of questions as an FOI request.*" The requested information was set out in the following terms:

"Questions:

1) please can you inform which dentists in Herefordshire currently offer NHS placements, and out of these dentists, can you inform how many and which ones have available spaces for new NHS patients and how many each individual dentist has available.

(Note: The answer "use the nhs lookup" will not suffice as this does not tell you which one has an NHS space.)

2) can you inform how many NHS dental places are offered in Herefordshire and what percentage of the Herefordshire population this relates to.

3) can you inform how many places each and every dental practice has of private patients and how many NHS patients they have and what proportion does this equate to (e.g Practice a had 90 Private and 10 NHS, this is 10% NHS)

4) can you inform how many children aged 5-9 were admitted to hospital in Herefordshire, in the year April 2019 - March 2020 suffering with dental conditions

5) can you inform what the top three admissions were in Herefordshire for the same year

6) can you inform how many of these patients in q5 had an NHS dentist

7) can you inform how many of those patients in q5 had no dentist

8) can you inform how many of those patients in q5 had a private dentist

9) can you inform the total cost related to dental admissions for all the population from March 2019 to April 2020 in Herefordshire

10) can you inform the total cost of NHS dental care, outside of hospitalisation, was attributed to NHS patients in the year March 2019 to April 2020"

6. The complainant sent a chasing email to NHS England on 14 August 2021.
7. By the date of this notice NHS England had not responded to the complainant.

Scope of the case

8. The complainant contacted the Commissioner on 14 August 2021 to complain about NHS England's failure to respond to his request.
9. The Commissioner contacted NHS England on 1 September 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. The Commissioner also contacted the complainant on 1 September 2021 to explain that NHS England had been given 10 working days from that date within which to provide a response to his request.
11. By the date of this notice NHS England had not responded to the complainant.
12. The scope of this notice and the following analysis is to consider whether the Trust has complied with section 10 of the FOIA.

Reasons for decision

13. Section 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.*
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

15. NHS England did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that NHS England has breached section 10 of the FOIA.

Right of appeal

16. 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

17. 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.
18. 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
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