

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 August 2022

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

Decision (including any steps ordered)

1. The complainant made a request for a copy of NHS England's Quality Metrics to optimise their services for mesothelioma patients. NHS England provided information in response to the request. Following internal review, as the complainant did not consider he had been provided with the information he had requested, NHS England confirmed that it did not hold the information requested under section 1(1)(a) FOIA.
2. The Commissioner considers that NHS England was correct to confirm that it does not hold the requested information.
3. The Commissioner requires no steps to be taken.

Request and response

4. The complainant made the following information request to NHS England on 19 June 2020:

"I write to request for you to disclose to me a copy of NHS England's Quality Metrics to optimise their services for mesothelioma patients."
5. NHS England responded on 19 January 2022 providing information. Following an internal review dated 27 June 2022 as the complainant did not consider he had been provided with the information he had requested, NHS England confirmed it did not hold the requested information under section 1(1)(a) FOIA.

Reasons for decision

6. Section 1(1) FOIA 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.”

7. The Commissioner has sought to determine whether, on the balance of probabilities, NHS England holds the requested information.

8. NHS England has explained to the complainant that:

“Your request for an internal review clarified your original request.

It appears you are requesting the answers provided by NHS provider organisations to NHS England in relation to the self-declaration questions relating to the “CANCER: MALIGNANT MESOTHELIOMA (ADULT) service”.

Where your request refers to ‘recommendations from the metrics on it’, it appears you are requesting information from the Annual Assessment process.

By way of background, NHS England has previously provided the questions that were intended to be answered by NHS provider organisations as part of the self-declaration and Annual Assessment processes for the Cancer: Malignant Mesothelioma (Adult) service.

We have reviewed our records and have been able to establish that the self-declaration questions were not established until after 1 April 2019 and specifically were not included in the annual collection of self-declarations conducted between April 2019 and June 2019. Consequently, there were no annual assessments conducted for this service and therefore NHS England did not receive any responses from NHS provider organisations.

The self-declaration and Annual Assessment processes for all Specialised Commissioned Services were suspended during the pandemic for financial years 2020-21 and 2021-22. We are able to advise that in restarting services post pandemic, it has been decided to not continue with the process.

Therefore, we confirm that NHS England does not hold the information you have requested.”

9. As the self-declaration questions were not established until after 1 April 2019 and specifically were not included in the annual collection of self-declarations conducted between April 2019 and June 2019, the Commissioner can only determine that on the balance of probabilities the requested information is not held. Furthermore NHS England has said that this was suspended for 2020-21 and 2021-22 due to the pandemic and it has also now been decided not to continue with this process.
10. NHS England has therefore complied with its obligations under section 1(1)(a) FOIA in this case.

Right of appeal

11. 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@Justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

12. 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.
13. 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
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Cheshire
SK9 5AF