

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 April 2022

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

Decision (including any steps ordered)

1. The complainant has requested a specific service level agreement from NHS Commissioning Board (NHS England). At the date of this notice, NHS England has not provided a response to the request.
2. The Commissioner's decision is as follows:
 - NHS England has breached section 10(1) of FOIA as it has not provided a valid response to the request within the statutory timeframe of 20 working days.
3. The Commissioner requires NHS England to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's request of 8 January 2022 that complies with FOIA.
4. NHS England must take this step 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 8 January 2022, the complainant wrote to NHS England through the WhatDoTheyKnow website and requested information in the following terms:

"A copy of the latest Service Level Agreement between NHS England the United Kingdom Haemophilia Centre Doctors' Organisation"
6. NHS England acknowledged receipt of the request the same day but did not go on to provide a substantive response to the request and the complainant contacted the Commissioner.
7. The Commissioner wrote to NHS England on 5 March 2022 and asked it to provide a response to the request within 10 working days. On 22 March 2022 the complainant advised the Commissioner that they still had not received a response.

Scope of the case

8. The complainant first contacted the Commissioner on 28 February 2022 to complain that they had not received a response to their request.
9. The Commissioner's investigation has focussed on NHS England's obligation under section 10(1) of FOIA.

Reasons for decision

Section 10 – time for compliance

10. Under section 1(1) of FOIA 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 them if it is held and is not subject to an exemption.
11. Section 10(1) says that a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. The complainant submitted their request to NHS England on 8 January 2022. NHS England has updated the Commissioner on its circumstances at this time but to date has not provided a response to the request under section 1(1). NHS England has therefore breached section 10(1) with regards to this request.

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: 0203 936 8963
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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF