

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 12 June 2023

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information relating to Diversity and Inclusion Officers employed by NHS England (NHSE). By the date of this notice NHSE had not issued a substantive response to this request.
2. The Commissioner's decision is that NHSE has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation.
  - NHSE must provide a substantive response to the request in accordance with its obligations under FOIA.
4. NHSE 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 5 April 2023, the complainant wrote to NHSE and requested information in the following terms:

"I am writing to you under the Freedom of Information Act 2000 to request the following:

How many Diversity and Inclusion officers did you hire between April 5, 2018 and April 5, 2023? Please state: the full job title of each role, the annual salary of each role, the date of appointment for each role, and a brief description of each role. (For clarity, 'Diversity and Inclusion officer' refers to any job role which has in its title any of the following words: 'diversity', 'inclusion', 'equality', 'wellbeing' and 'EDI'.)

In total, how many Diversity and Inclusion officers do you currently employ? Please state: the full job title of each role, the annual salary of each role, and a brief description of each role. (The definition of 'Diversity and Inclusion officer' is the same as in the previous question.)

Between January 1, 2018 and April 5, 2023, for what period of time has your organisation been a member of the LGBT charity Stonewall? If the membership was terminated, on what date did your membership end? How much did you pay in membership fees and other expenses to Stonewall during the stated period? Please provide a date and reason for each payment?

Please provide the information in the form of a portable document format (PDF) via email."

6. NHSE acknowledged the request on 6 April 2023. To date, a substantive response has not been issued.

## Reasons for decision

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7. Section 1(1) of 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.”

8. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
9. On 23 May 2023 the Commissioner wrote to NHSE, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
10. Despite this intervention NHSE has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that NHSE did not deal with the request for information in accordance with FOIA. The Commissioner finds that NHSE has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

## 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**