

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

### **Decision notice**

**Date:** 21 December 2018

**Public Authority:** NHS England  
**Address:** PO Box 16738  
Redditch  
B97 9PT

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

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1. The complainant requested information from NHS England about travel expenses incurred in the financial year 2017/2018 including how many trips were paid for, total cost of trips, most expensive trip, specifically what class of travel and destinations/departure points.
  2. The Commissioner's decision is that NHS England has breached section 10(1) of the 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 NHS England to take the following steps to ensure compliance with the legislation.
    - Respond to the complainant's request in accordance with 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.
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## Request and response

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5. On 17 May 2018, the complainant wrote to NHS England and requested information in the following terms:

*"In a previous FoI response [FOI-00010643] you provided a response to four questions in relation to the 2015-16 financial year in respect of travel expenses by NHS England.*

*Could you please provide me with updated answers for the 2016-17 financial year in relation to Question 1, Question 2, Question 3, Question 4 and Question 5?"*

6. On 21 May 2018, NHS England wrote to the complainant to request clarification of the request.

7. On 24 May 2018, the complainant wrote back to NHS England and clarified his request for information in the following terms:

*"These are the specific questions I would like answered:*

*1. Please could you provide me with a table showing the various types of travel expenses incurred by NHS England in the 2017/18 financial year?*

*2. Also in the 2017/18 financial year exactly how many trips were paid for so that staff could make return journeys between London and Leeds? 3. What was the total cost of all of these trips?*

*4. What was the single most expensive ticket bought for a return trip between London and Leeds, and what class of travel was this ticket?*

*5. Please give me details of the ten most expensive flight tickets purchased for business travel in 2017/18 giving for each one the cost of travel, the departure and destination airports, whether the ticket was single or return and the class of travel.*

*Yours Sincerely,  
Matthew Davis"*

8. To date, a substantive response has not been issued.

## Scope of the case

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9. The complainant contacted the Commissioner on 25 November 2018 to complain about the failure by NHS England to respond to his request.
10. The Commissioner has considered whether NHS England has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

## Reasons for decision

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11. Section 1(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.*

12. Section 10(1) of the 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.”

13. On 4 December 2018 the Commissioner wrote to NHS England, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

14. Despite this intervention NHS England has failed to respond to the complainant.

15. From the evidence provided to the Commissioner in this case, it is clear that NHS England did not deal with the request for information in accordance with the FOIA. The Commissioner finds that NHS England 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 the FOIA.

## Right of appeal

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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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

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