

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 16 December 2014

Public Authority: NHS England
Address: 8E02 Quarry House
Quarry Hill
Leeds LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information relating to Ebola.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the requested information or issue a refusal notice in accordance with section 17 of the FOIA
4. The public authority 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 14 October 2014, the complainant wrote to NHS England and requested information in the following terms:

"Please provide copies of all correspondence and communications from July 30, 2014, to today's date involving Simon Stevens which relate to Ebola. By

"involving" I mean sent or received by (including 'copied in' communications)."

6. NHS England has not responded.

Scope of the case

7. The complainant contacted the Commissioner on 13 November 2014 to complain about the way her request for information had been handled.
8. The Commissioner wrote to NHS England advising it should respond to the request. The Commissioner considers the scope of this case is to determine if NHS England has complied with its obligations under the FOIA.

Reasons for decision

Section 1: general right of access

Section 10(1): time for compliance

9. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
10. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
11. In this case NHS England wrote to the complainant on 11 November 2014 advising that it was still in the process of assessing the request. It has not responded further.
12. The Commissioner wrote to NHS England on 27 November 2014 reminding it of its obligations under the FOIA and asking it to provide him with a copy of its response if it had now done so. The Commissioner has not received any response.
13. Despite correspondence from the Commissioner, NHS England has failed to confirm or deny that it holds the requested information, and has neither disclosed the requested information nor provided a valid refusal notice.

14. The Commissioner therefore finds NHS England in breach of section 10(1) of the FOIA.

Right of appeal

15. 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

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

16. 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.
17. 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

Pamela Clements
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Wilmslow
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SK9 5AF