

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 June 2016

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 information relating to the Targeted Record Card Checks.
2. NHS England refused to comply with the request under section 12 of the Freedom of Information Act 2000 (FOIA) as it said it would exceed the cost limit to do so.
3. The Commissioner's decision is that NHS England was correct to apply section 12 FOIA in his case. It also complied with its obligations under section 16 FOIA in relation to the way in which it dealt with this request.
4. The Commissioner requires no steps to be taken.

Request and response

5. On 19 November 2015 the complainant requested information of the following description:

"I am writing with regards to request information about the Targeted Record Card Checks please can you kindly provide the following information

1. What instructions were given to the Dental Advisers prior/during the Target Record Card Checks (TRCC)
2. How were the record cards chosen for Inspection

3. How much payment was made to the Dental Advisers for the TRCC
 4. What methodology was used to calculate the monies to be taken back from the Providers
 5. How much money was collected as a result of the TRCC
 6. What were the agreements terms of the remedial / breach notice
 7. Were any Non disclosure agreements enforced
 8. What were the terms of the Non disclosure agreement"
6. On 16 December 2015 NHS England responded. It said that it would exceed the cost limit under section 12 FOIA to comply with parts 5, 6, 7 and 8 of the request. It said that it would take 26 hours to comply with these parts of the request. It suggested that the complainant may therefore wish to refine the request by limiting it to parts 1, 2, 3 and 4.
 7. The complainant requested an internal review on 13 January 2016. NHS England sent the outcome of its internal review on 2 February 2016. It upheld its original position.

Reasons for decision

Section 12 – cost exceeds appropriate limit

8. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
9. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request - 24 hours work for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:

- (a) determine whether it holds the information;
- (b) locate the information, or a document which may contain the Information;
- (c) retrieve the information, or a document which may contain the Information; and
- (d) extract the information from a document containing it.
10. The appropriate limit for NHS England is £450 or the equivalent of 18 hours work.
11. NHS England explained to the complainant that all information in respect of questions 5, 6, 7 and 8 of the request is held at contract level within all individual local offices. It estimated that it would take a minimum of 2 hours per local office to retrieve, extract and review the requested information. It said that there are 13 local offices so it is expected that the time estimate for providing the response just to Questions 5, 6, 7 and 8 will total at least 26 hours. It is also estimated that it would take approximately 3 hours to collate the information centrally in order to allow NHS England to formulate a response.
12. NHS England provided a further breakdown of this estimate in the following table:

Output	Timeframe
In order to establish the level of information requested NHS England will need to contact each of the Local Offices, 13 in total, produce a template for response, in order to capture correct information	30 mins
<ul style="list-style-type: none"> • Each local office will need to audit track correspondence in order to establish relevant practices identified. • Once relevant practices have been identified contractual folders need to be retrieved and Payments on Line system accessed to view finance level of each relevant contract. • Once accessed a comprehensive audit of financial activity will be required to be undertaken to ascertain how much, if any, finances were recovered. All relevant data needs to be extracted and inputted into template for response to central team. • In regards to the agreements /terms of the remedial 	<ul style="list-style-type: none"> • 20 mins per office x 13 • 10 mins for all contracts per office x 13 • 30mins for all contracts per office x 13 • 40 mins per

<p>/ breach notice again comprehensive audit of relevant formal meetings/decision making groups will need to be undertaken. All relevant details need to be extracted and inputted into template for response to central team.</p> <ul style="list-style-type: none"> • Further analysis of whether an Non-disclosure agreements enforced will be required to undertaken , from relevant contractual files and response populated into the template for response to central team . 	<p>office x13</p> <ul style="list-style-type: none"> • 30 mins per office x13
<p>Central team on receipt of all returned templates will collate onto one uniformed return</p>	<p>20 mins</p>
<p>Total</p>	<p>28 hours</p>

13. To comply with parts 5, 6, 7 and 8 of the request, NHS England would need to contact 13 local offices to collate the required information. Due to the duplication of work required by each of the 13 local offices, this has a significant impact on the time and therefore cost implications. Therefore based upon the estimate provided by NHS England, the Commissioner considers that it was correct to apply section 12 FOIA to refuse to comply with this request.

Section 16 – advice and assistance

14. Under section 16 FOIA NHS England is obliged to provide the complainant with advice and assistance to help the complainant refine the request to fall within the cost limit or explain why this would not be possible.
15. NHS England explained that if the complainant were to refine the request for information within more specific margins, for example, to restrict the request to questions 1, 2 3 and 4 then it may be able to continue processing the request.
16. As NHS England has provided advice and assistance as to how the request could be refined, the Commissioner considers that NHS England has complied with its obligations under section 16 FOIA.

Right of appeal

17. 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

18. 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.
19. 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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SK9 5AF