

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

### **Decision notice**

**Date:** 31 July 2018

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

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

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1. The complainant has requested information about overseas trips taken by officials at NHS England.
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 the public authority to take the following steps to ensure compliance with the legislation.
  - NHS England must issue a substantive response to the request in accordance with its obligations under 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.

## Request and response

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5. On 7 December 2017, the complainant wrote to NHS England and requested information in the following terms:

*"A previous FOI request I submitted to NHS England (FOI-054795) showed the number of overseas flights taken by officials in NHSE in 2016.*

*Could you please provide, under the FOI Act, some details of the following trips in 2016:*

- All trips to Washington (15 flights in total)*
- All trips to Orlando (10 flights in total)*
- All trips to Oklahoma City (6 flights in total)*
- All trips to Minneapolis (1 flight)*
- All trips to Philadelphia (1 flight)*

*Please could you provide the following details of each trip:*

- general purpose of the trip, for example, attendance of a conference or meetings. Please name the conference, if applicable;*
- organisations with whom meetings with NHSE officials were held. If possible, please also include names of individuals present. Please also state whether any politicians, or officials from other UK public bodies were present.*
- date of overseas trips"*

6. NHS England acknowledged the request on 8 December 2017 but stated that it was received on 7 November 2017.

## Scope of the case

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7. The complainant contacted the Commissioner on 15 May 2018 to complain about NHS England's failure to respond to the information request.
8. The Commissioner wrote to NHS England on 3 July 2018, reminding it of its responsibilities under the FOIA and asking it to respond to the complainant's request within 10 working days. NHS England acknowledged the Commissioner's email on the same day.
9. Despite the Commissioner's intervention NHS England has, to date, failed to respond to the complainant's request.

## Reasons for decision

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10. 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."*

11. 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"*.

12. 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) of the FOIA 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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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: 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)

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 .....**

**Pamela Clements  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
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Wilmslow  
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SK9 5AF**