

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 July 2018

Public Authority: NHS England
Address: 4W08 4th Floor
Quarry House
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant requested information from NHS England in relation to reports produced by Pathway Analytics for NHS England concerning Sexual Assault Referral Centres since 1st April 2013.
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 step to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. NHS England 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 28 March 2018, following correspondence with NHS England to refine his request for information, the complainant wrote to NHS England and requested information in the following terms:

"Please provide all reports produced by Pathway Analytics for NHS England concerning Sexual Assault Referral Centres since 1st April 2013. Please provide the full reports/documents/summaries of conclusions held by or provided for NHS England."
6. NHS England acknowledged the request on 3 April 2018, stating that it aimed to provide a full response within 20 working days.
7. NHS England wrote to the complainant on 30 April 2018 and extended its deadline for the response to 11 May 2018.
8. As no response was provided, the complainant wrote to NHS England on 11 May 2018 to chase a response.
9. On 14 May 2018 NHS England acknowledged the delay and stated that it would provide a further update on 25 May 2018.
10. On 25 May 2018, NHS England apologised for any inconvenience caused but again extended its deadline for the response to 8 June 2018. To date, a substantive response has not been issued.

Scope of the case

11. The complainant contacted the Commissioner on 11 June 2018 to complain about the failure by NHS England to respond to his request.
12. 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

13. 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.*
14. 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.*"
 15. On 21 June 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.
 16. Despite this intervention NHS England has failed to respond to the complainant.
 17. 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

18. 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

19. 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.
20. 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