

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 August 2023

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

Decision (including any steps ordered)

1. The complainant has requested specific internal emails. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA as it has not responded to the request, in accordance with the FOIA, within the required 20 working days.
2. The Commissioner requires NHS England to take the following steps to ensure compliance with the legislation.
 - Provide a response to the complainant's request in accordance with the FOIA.
3. 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 26 January 2023 the complainant made the following information request to NHS England:

“Please could you give me copies of every internal email to/from the HSIB maternity investigations team that mentions 'normality bias' over the last 12 months. I understand that names and email addresses will be redacted in this information, but hope that the full context of these mentions of 'normality bias' can be preserved in the release.”
5. The complainant contacted NHS England on the 6 April 2023 as no response had been received.
6. NHS England contacted the complainant on the 3 May 2023 apologising for the delay and stated a response will be issued as soon as possible. It then contacted the complainant again on 13 July 2023 asking if they still wanted their request processing.
7. The complainant contacted the Commissioner on 14 July 2023 to complain about NHS England not providing a response to the request.
8. The Commissioner contacted NHS England on 26 July 2023 asking that it provide a response to the complainant's request within 10 working days.

Scope of the case

9. The complainant contacted the Commissioner on 16 August 2023 stating that no response has been received from NHS England.
10. The scope of the case is for the Commissioner to determine whether NHS England has breached section 10(1) of the FOIA.

Reasons for decision

Section 10(1) of the FOIA – Timeframe to respond.

11. Section 10(1) of the FOIA requires a public authority that receives a request for information to respond in accordance with section 1 of the FOIA within 20 working days following its receipt.
12. In this case the complainant made their request on 26 January 2023 and to date the Commissioner has seen no evidence that NHS England has issued a response to the complainant in accordance with the FOIA.
13. The Commissioner therefore finds that NHS England has breached section 10(1) of the FOIA.
14. The Commissioner requires NHS England to comply with the steps in paragraph 2 above.

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@justice.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

Ben Tomes
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Cheshire
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