

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 September 2024

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

Decision (including any steps ordered)

1. The complainant has requested information from NHS England regarding any legal advice provided to Marianne Griffiths' review team.
2. The Commissioner's decision is that the above public authority ("the public authority") breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 26 July 2024, the complainant wrote to the public authority and requested information in the following terms:

"As regards question 1, Hill Dickinson LLP did not provide legal advice to the Marianne Griffiths review team regarding the Settlement Agreements and confidentiality clauses covered in published report."

1) If Hill Dickinson did not provide legal advice on Settlement Agreements and Confidentiality Clauses, then please can NHSE confirm which legal firm provided this advice?

2) If no legal advice was obtained by the review team regarding settlement agreements and confidentiality clauses, what guidance was

followed by the review team, in order to ensure its legitimacy of findings on the Settlement Agreements and Confidentiality clauses it reviewed?

3) Can NHSE confirm if any of the review team had the necessary legal qualifications and/or legal training, in order to review Settlement Agreements or Confidentiality Clauses without seeking independent legal advice?

In its earlier response to an FOI request regarding the review by Dame Griffiths on the 12th September 2023, NHSE disclosed the following,

'NHS England does not hold definitive costs associated with direct legal advice provided to the Chair as invoices received by NHS England cover more than one legal request and or instruction'.

4) Other than Hill Dickinson, what are the names of the other legal firms requested or instructed by the review, as mentioned in your earlier disclosure above?"

5. The public authority responded on 9 September 2024.

Scope of the case

6. The complainant has confirmed that they are happy with the information they have now received, but wish to have the late response formally recorded.

Reasons for decision

7. 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."

8. Section 10(1) of 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".

9. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

10. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

11. 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.
12. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF