

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2016

Public Authority: NHS Commissioning Board (NHS England)
Address: 4N22 Quarry House
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information about correspondence between Sir Bruce Keogh and Deloitte.
2. The Commissioner's decision is that NHS Commissioning Board (NHS England) has breached section 10(1) of the FOIA because it has not provided the complainant with a response to his request within 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a response to his request of 26 December 2015.
4. The public authority 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

5. On 26 December 2015, the complainant wrote to NHS England and requested information in the following terms:

"Please can you provide me with a copy of any emails between Sir Bruce Keogh and anyone at Deloitte between 1st January 2015 and 1st September 2015."

6. NHS England did not provide a response and the matter was passed to the Commissioner.
7. The Commissioner wrote to NHS England on 23 February 2016 and asked it to provide the complainant with a response within 10 working days. NHS England explained to the Commissioner on 8 March 2016 that it was not yet in a position to respond. At the date of this notice, NHS England has not responded to the complainant's request.

Scope of the case

8. The complainant contacted the Commissioner on 22 February 2016 to complain that he had not received a response to his request.
9. The Commissioner has focussed his investigation on whether NHS England has breached section 10(1) of the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA says that anyone who submits a request for information to a public authority is entitled to be told whether the authority holds the information and, if it does, to have that information communicated to him or her.
11. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) within 20 working days.
12. In this case, the complainant submitted his request to NHS England on 26 December 2015. A response was due by Monday 25 January 2016. To date, NHS England has not provided a response, which is a clear breach of section 10(1).

Right of appeal

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
Website: 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
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