

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 September 2017

Public Authority: NHS England
Address: 4N22 Quarry House
Quarry Hill
Leeds LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information about work on the amount spent from an Estates Technology and Transformation fund. NHS England has acknowledged the request but at the date of this notice has not provided a response.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA because it has not complied with section 1(1) within 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's request of 14 February 2017.
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 14 February 2017 the complainant wrote to NHS England and requested information in the following terms:

"As you are not able to provide me with the below I would like to make a new request under the FOIA act.

- *Please send me the total amount spent from the Estates technology and Transformation fund to date.*
 - *Please list the total amount spent from the Estates Technology and Transformation Fund to date.*
 - *Please also break this down by total spent per financial year*
 - *Please confirm how much total amount left in the fund, that that has not been allocated yet"*
6. NHS England acknowledged the request and has sent to the complainant a regular series of communications, acknowledging that its response is delayed.

Scope of the case

7. The complainant contacted the Commissioner on 30 August 2017 to complain that she had not received a response to her request.
8. The Commissioner has considered whether NHS England has complied with its duty under section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled a) to be told whether the authority holds the information and b) to have the information communicated to him or her if it is held.
10. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt.
11. In this case, the complainant submitted her request on 14 February 2017. Almost seven months later, NHS England has still not provided a response to the request. This is a clear breach of section 10(1).

Right of appeal

12. 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

13. 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.
14. 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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