

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 14 December 2018

**Public Authority:** NHS England  
**Address:** Legal Team  
4W08 4<sup>th</sup> Floor  
Quarry House  
Leeds  
LS2 7UE

### **Decision (including any steps ordered)**

---

1. The complainant has requested declaration of interest and interest register forms in relation to various individuals at NHS NEL Commissioning Support Unit.
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 steps to ensure compliance with the legislation.
  - NHS England must issue a substantive response to the request in accordance with its obligations under the FOIA.
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 2 October 2018, the complainant wrote to NHS England and requested information in the following terms:

*"Under the Freedom of Information Act 2000 regarding NEL CSU, I request the following:*

- 1) A copy of the Declaration of Interest form and/or NHS interests register form of "[redacted]".*
- 2) A copy of the Declaration of Interest form and/or NHS interests register form of "[redacted]".*
- 3) A copy of the Declaration of Interest form and/or NHS interests register form of "[redacted]".*
- 4) A copy of the Declaration of Interest form and/or NHS interests register form of "[redacted]".*

*I ask that you remove any personal data relating to the aforementioned individuals."*

6. NHS England acknowledged receipt of the request but failed to provide a response within 20 working days. It wrote to the complainant on 30 October 2018 to apologise for the delay.

## Scope of the case

---

7. The complainant contacted the Commissioner on 8 November 2018 to complain about the way his request for information had been handled.
8. The Commissioner wrote to NHS England on 16 November 2018, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite the Commissioner's intervention NHS England has, to the date of this notice, failed to respond to the request.

## Reasons for decision

---

10. 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."*

11. 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."*
12. From the evidence provided to the Commissioner in this case, it is clear that NHS England has not dealt with the request for information in accordance with the FOIA. The Commissioner finds that NHS England has breached section 10(1) of the FOIA 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

---

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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**