

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

### **Decision notice**

**Date:** 2 February 2022

**Public Authority:** The NHS Commissioning Board (NHS England)

**Address:** Quarry House  
Quarry Hill  
Leeds  
LS2 7UE

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

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1. The complainant requested information from the NHS Commissioning Board (NHS England) relating to a specific complaint.
2. The Commissioner's decision is that NHS England failed to respond to the request within 20 working days and has therefore breached section 10(1) of the FOIA.
3. As a response has subsequently been provided no steps are required.

### **Request and response**

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4. On 28 January 2020 the complainant contacted NHS England and verbally requested information in the following terms:  
  
"I would like a copy of complaint reference [reference redacted].  
  
I would like this to include the additional points that were added to the complaint at a later stage"
5. The complainant contacted NHS England on 30 January 2020 to confirm that his request for information had been recorded correctly by NHS England.

6. The complainant contacted the Commissioner on 16 April 2021 to complain about the NHS England's failure to respond to their request.
7. On 29 July 2021 the Commissioner wrote to NHS England, reminding it of its responsibilities and asked it to provide a substantive response to the complainant's request within 10 working days.
8. NHS England provided the complainant with a response to his request on 7 October 2021.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 21 January 2022 and requested a decision notice considering NHS England's compliance with the FOIA.
10. The Commissioner has considered whether NHS England has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

### **Reasons for decision**

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11. 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."
12. 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".
13. From the evidence provided to the Commissioner in this case, it is clear that NHS England did not deal with the request for information in accordance with the FOIA. The Commissioner finds that NHS England breached section 10(1) of the FOIA by failing to respond to the request within 20 working days.

## **Other matters**

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14. The Commissioner considers that this request was handled poorly by NHS England. Whilst the Commissioner acknowledges the pressures and resource challenges faced by public authorities during the pandemic, on this occasion it took over eight months for the complainant to receive a response, and only after intervention by the Commissioner.

## Right of appeal

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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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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

**Phillip Angell**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**