

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

### **Decision notice**

**Date:** 27 April 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 concerning NHS England's Review of Serenity Integrated Mentoring (SIM). By the date of this notice the NHS Commissioning Board (NHS England) had not issued a substantive response to this request.
2. The Commissioner's decision is that NHS England has breached section 10(1) of 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 step to ensure compliance with the legislation.
  - NHS England must provide a substantive response to the request in accordance with its obligations under FOIA.
4. NHS England must take this step 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 FOIA and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 4 December 2021, the complainant wrote to NHS England and requested information in the following terms:

“As reported in the Disability News Service on 13/05/21 [1], NHS England has formally written to all medical directors of NHS Mental Health Trusts, asking them “to review the implementation of the SIM or similar models where they have been adopted locally.” [2].

The stated aims of this review were to: “ensure that any service being provided is:

a) in line with our Long-Term Plan ambitions for expanding and improving community services for adults with severe mental illnesses – please see further detail below;

b) in line with NICE guidelines for patients with personality disorder and self-harm care;

c) in line with patient confidentiality and data sharing law; and

d) to ensure that the approaches in place do not compromise patient safety or human rights.” [2]

Please provide the following information in an electronic format:

- A copy of the letter described above sent by [name redacted] on behalf of NHS England to Medical Directors of NHS Trusts
- Responses received by individual NHS Trusts, or representatives thereof, to the request to review SIM and similar models

I believe that this would not exceed the section 12(1) provision of the act around cost to retrieve and collate the information given that as an organisation, NHS England has previously stated that NHSE would collate these responses for the purposes of reviewing SIM and similar models of service provision and therefore presumably this information is already collated. If you are unable to provide this information in the requested format, kindly suggest a suitable alternative.”

6. NHS England acknowledged the request on 7 December 2021. To date, a substantive response has not been issued.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 21 March 2022 to complain about NHS England’s failure to respond to their request.
8. The Commissioner has considered whether NHS England has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

## Reasons for decision

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9. 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."

10. 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".

11. On 31 March 2022 the Commissioner wrote to NHS England, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

12. Despite this intervention NHS England has failed to respond to the complainant.

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 FOIA. The Commissioner finds that NHS England has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

## Right of appeal

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14. 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)

15. 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.
16. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**