

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

### **Decision notice**

**Date:** 23 June 2016

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

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

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1. The complainant made a request to NHS England for information regarding a review into the deaths of people with mental health and learning difficulties at the Southern Health Trust as well as information on another review into the commissioning of services for people with learning difficulties and autism. NHS England failed to respond to the request.
2. The Commissioner's decision is that NHS England breached section 10(1) of FOIA by failing to respond to the complainant's request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - NHS England shall disclose the requested information to the complainant or else issue a refusal notice in accordance with section 17 of 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 19 February 2016 the complainant made a freedom of information request to NHS England which read as follows:

*Please provide copies of all email and written correspondence between the following NHS England employees – [a named individual], [a named individual] and [a named individual] - and Southern Health NHS Foundation Trust between 1 November 2015 and 31 January 2016 relating to the Mazars review of deaths of people with mental health and learning disabilities. I have refined my request following your response to my previous request below.*

*Please provide copies of any NHS England-commissioned review or analysis of the Mazars review's contents.*

*Please also provide details on the total cost of the 'Winterbourne View – Time for Change' project NHS England commissioned Sir Stephen Bubb to lead. Please also specify how much was paid specifically to Sir Stephen, or ACEVO, for this work.*

6. NHS England acknowledged the request and said that it aimed to respond by 1 April 2016.
7. On 1 April 2016 NHS England contacted the complainant again to apologise for the delay in responding to the request. It said that it hoped to respond as soon as possible.
8. On 4 April 2016 NHS England explained further that the request was currently going through its approvals process which it said had unfortunately taken longer than previously anticipated.
9. On 11 April 2016 the complainant contacted NHS England to reiterate his request and to remind it that it had exceeded the statutory deadline.
10. The complainant sent further reminders to NHS England on 22 April, 25 April and 13 May.
11. On 13 May 2016 NHS England said that the request was still going through its clearance process and that it hoped to provide a response as quickly as possible.

## **Scope of the case**

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12. On 16 May 2016 the complainant contacted the Commissioner to complain about the failure of NHS England to respond to his request.
13. Following receipt of the complaint the Commissioner contacted NHS England on 1 June 2016 providing details of the request, reminding it of its responsibilities and asking it to respond to the complainant within 10 working days.
14. NHS England informed the Commissioner that it had received his communication and would be working to provide a response as requested. However, to date, NHS England has still not responded to the request.

## **Reasons for decision**

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### **Section 10 – Time for compliance with request**

15. Section 10(1) of FOIA provides that a public authority must respond to a request promptly and in any event within 20 working days.
16. The complainant made his request for information to NHS England on 19 February 2016 but has failed to receive a response. NHS England has clearly exceeded the 20 working day limit and therefore the Commissioner has found that it breached section 10(1) in its handling of the request.

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

**Paul Warbrick  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**