

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2017

Public Authority: NHS Commissioning Board (NHS England)
Address: 4N22 Quarry House
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested information relating to the current national review of congenital heart disease services. NHS England failed to respond to this request for information within the statutory time for compliance.
2. The Commissioner considers that the NHS England breached section 10(1) FOIA in the handling of this request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 26 January 2017 the complainant made the following request to NHS England:

"I am writing to request, under relevant access to information legislation, information relating to the current national review of congenital heart disease services. Specifically, I would like to receive information held by NHS England that shows when, why and by whom the decision was taken to make the July 2016 announcement that NHS England is minded to decommission level one services at University of Leicester Hospitals NHS Trust. While my request clearly relates to information rather than to specific documents, in order to assist you in identifying the information I require, I am thinking of papers put to decision making bodies, and minutes of such meetings.

I would prefer to receive this information in electronic format, but can provide my postal address should it be available only in hard copy."

5. NHS England responded to the request on 27 March 2017.

Scope of the case

6. The complainant contacted the Commissioner on 6 March 2017 to complain about the way his request for information had been handled as at this point NHS had not provided him with a response.
7. The Commissioner has considered whether NHS England dealt with this request in accordance with its obligations under section 10(1) FOIA.

Reasons for decision

8. Section 10(1) provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

9. Section 1(1) provides 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. The request was made on 26 January 2017 and the response was not provided until 27 March 2017. The Commissioner therefore finds that NHS England breached section 10(1) in failing to respond within 20 working days.

Right of appeal

11. 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

12. 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.
13. 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

Gemma Garvey
Senior Case Officer

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