

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 August 2017

**Public Authority:** NHS England  
**Address:** 4N22 Quarry House  
Quarry Hill  
Leeds LS2 7UE

#### Decision (including any steps ordered)

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1. The complainant has requested information about work on updating NHS brand guidelines. NHS England has acknowledged the request but at the date of this notice has not provided a response.
2. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA because it has not complied with section 1(1) within 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
  - Provide a response to the complainant's request of 27 February 2017.
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

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5. Through the WhatDoTheyKnow website, on 27 February 2017 the complainant wrote to NHS England and requested information in the following terms:

*"Recently the NHS brand guidelines were updated - see [www.england.nhs.uk/nhsidentity](http://www.england.nhs.uk/nhsidentity)*

*I would like to know:*

- 1. Was the work done in-house or awarded to an agency?*
  - 2. If the work was done by an agency, who was that agency?*
  - 3. If applicable, provide a list of all the agencies that submitted bids and what were the value of the bids?*
  - 4. What was the total cost of the project?"*
6. NHS England acknowledged the request on 1 March 2017 and since 29 March 2017 has sent to the complainant a series of communications, acknowledging that its response is delayed.

## Scope of the case

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7. The complainant contacted the Commissioner on 2 August 2017 to complain that he had not received a response to his request.
8. The Commissioner has considered whether NHS England has complied with its duty under section 10(1) of the FOIA.

## **Reasons for decision**

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9. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled a) to be told whether the authority holds the information and b) to have the information communicated to him or her if it is held.
10. Section 10(1) of the FOIA says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt.
11. In this case, the complainant submitted his request on 27 February 2017. Some five months later, NHS England has still not provided a response to the request. This is a clear breach of section 10(1).

## Right of appeal

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12. 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)

13. 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.
14. 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**