

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 August 2018

Public Authority: NHS England
Address: 2N22 Quarry Hill
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant has requested figures from NHS England about patient lists. At the date of this notice, NHS England has not provided a response to the request.
2. The Commissioner's decision is as follows:
 - NHS England has breached section 10(1) of the FOIA as it has not provided a response to the request 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 12 April 2018.
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

5. On 12 April 2018, the complainant wrote to NHS England and requested information in the following terms:

"Please provide the following figures for each financial year from 2012/13 to 2017/18:

The number of requests received by NHS England from GP practices wanting to close their lists to new patients.

The number of list closure requests approved by NHS England."

6. NHS England acknowledged the request on 12 April 2018. The complainant did not go on to receive a substantive response and contacted the Commissioner.
7. The Commissioner wrote to NHS England on 6 August 2018 and asked it to provide a response to the request within 10 working days. On 21 August 2018 the complainant advised the Commissioner that he still had not received a response.

Scope of the case

8. The complainant first contacted the Commissioner on 23 July 2018 to complain about the way his request for information had been handled.
9. The Commissioner's investigation has focussed on NHS England's obligation under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

10. 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 it communicated to him or her if it is held.
11. Section 10(1) 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 of the request.

12. The complainant submitted his request to NHS England on 5 June 2018 and to date has not received a response. NHS England has therefore breached section 10(1) with regards to this request.

Right of appeal

13. 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

14. 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.
15. 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
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