

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 August 2021

Public Authority: The NHS Commissioning Board (NHS England)

Address: Quarry House
Quarry Hill
Leeds
LS2 7EU

Decision (including any steps ordered)

1. The complainant requested information from the NHS Commissioning Board ("NHS England") in four parts about correspondence relating to a contract awarded to Chapel Lane Surgery in Formby.
2. The Commissioner's decision is that NHS England failed to respond to the requests within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires NHS England to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the requests in accordance with its obligations under the FOIA.
4. NHS England 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 10 March 2021 the complainant wrote to NHS England and requested information in four parts in the following terms:

[1]

"Please could you provide a copy of the APMS contract awarded to Chapel Lane Surgery Formby (13 Chapel Lane Formby Liverpool L37 4DL) and/or it's partners, to provide GP services from Hightown Village Surgery Liverpool (1 St George's Road Hightown Liverpool L38 3RY). Chapel Lane Surgery started providing GP services on 1 April 2018, the contract was then agreed and signed sometime thereafter."

[2]

"Please could you provide details of all correspondence and content therein, including memos, emails, letters, minutes of meetings etc, between the following persons,

[Name and job title redacted]

[Name and job title redacted], NHS England (Cheshire and Merseyside)

[Name and job title redacted] Chapel Lane Surgery Formby

[Name and job title redacted] Chapel Lane Surgery Formby

[Name and job title redacted] Chief Commissioning and Redesign Office (South Sefton CCG)

only regarding the APMS contract, between the dates of 1 February 2018 and 1 January 2020."

[3]

"Please could you provide details of all correspondence and content therein, including memos, emails, letters, minutes of meetings etc, between any of the following persons,

[Name and job title redacted] Chapel Lane Surgery Formby

[Name redacted] South Sefton CCG

[Name and job title redacted] South Sefton and Southport & Formby CCG

[Name redacted] South Sefton CCG

[Name redacted] *South Sefton CCG*

only regarding the Hightown Village Surgery, Liverpool APMS contract, between the dates of 1 February 2021 and 10 March 2021."

[4]

"Please could you provide details of all correspondence and content therein, including memos, emails, letters, minutes of meetings etc, between any of the following persons,

[Name and job title redacted]

[Name and job title redacted], *NHS England (Cheshire and Merseyside)*

[Name and job title redacted] *Chapel Lane Surgery Formby*

[Name and job title redacted] *Chapel Lane Surgery Formby*

[Name redacted] *Chief Commissioning and Redesign Office (South Sefton CCG)*

only regarding the Hightown Village Surgery, Liverpool APMS contract, between the dates of 1 February 2018 and 1 January 2020."

6. On 25 May 2021, as the complainant had not received a response, he wrote to NHS England to ask for an update on the status of his request. The complainant stated that he had spoken to NHS England via telephone on the same day and was informed that the requests were being considered by the FOI department.
7. By the date of this notice, NHS England had not provided a substantive response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 27 May 2021 to complain about NHS England's failure to respond to the requests.
9. The Commissioner contacted NHS England on 14 June 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. The Commissioner's correspondence was neither acknowledged nor responded to.

10. The Commissioner also contacted the complainant on 14 June 2021 to explain that NHS England had been given 10 working days from that date within which to provide a response to the requests.
11. The complainant contacted the Commissioner on 29 June 2021 and explicitly requested that a decision notice be issued which highlights the breach of the statutory timeframe under the FOIA.
12. The scope of this notice and the following analysis is to consider whether NHS England has complied with section 10 of the FOIA.

Reasons for decision

13. Section 1(1) of the 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.*

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. NHS England did not provide a substantive response to the requests within 20 working days of receipt. Therefore, the Commissioner's decision is that NHS England has breached section 10 of the FOIA.

Right of appeal

16. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Sarah Clouston
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF