

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 September 2018

Public Authority: NHS Property Services Ltd

Address: Skipton House
London
SE1 6LH

Decision (including any steps ordered)

1. The complainant has requested information from NHS Property Services Ltd about the land / Brownfield Site which the public authority manage on behalf of the NHS owning Trust(s), or others.
2. The Commissioner's decision is that NHS Property Services Ltd has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires NHS Property Services Ltd to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA
4. NHS Property Services Ltd 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 16 May 2018, the complainant wrote to NHS Property Services Ltd and requested information in the following terms:

"I write to make the following FOIAR in respect of the Land / Brownfield Site which NHSPS manage on behalf of the NHS owning Trust(s), or others, between the 1829 Building, on The Countess of Chester Health Park, and the roadway Upton Grange.

My FOIAR is, please-

1. Who was / were the Owner(s) of that Land / Brownfield Site on 30th August, 2017, at the instant when a Section 106 Agreement was entered into, with Cheshire West and Chester Council (CWaCC), in the matter of Planning Application Reference 17/01543/FUL?

2. Have any changes in Ownership occurred since the Section 106 Agreement was entered into, and what were those changes?

3. If so, on which date were those Changes in Ownership advised to CWaCC as required under the Terms of the Section 106 Agreement?

4. Who was / were the Owner(s) of the aforementioned Land / Brownfield Site on 10th December, 2014, at the instant when a previous Planning Application was made to CWaCC?

5. If there has been a Change of Ownership between 10th December, 2014, and today's instant:-

5.1. Provide details of those Changes.

5.2. Explain why those Changes occurred."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 15 June 2018 to complain about the failure by NHS Property Services Ltd to respond to his request.
8. The Commissioner has considered whether NHS Property Services Ltd has complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

Reasons for decision

9. 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.

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "*not later than the twentieth working day following the date of receipt.*"

11. On 25 June 2018 the Commissioner wrote to NHS Property Services Ltd, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 20 working days.

12. Despite this intervention NHS Property Services Ltd has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that NHS Property Services Ltd did not deal with the request for information in accordance with the FOIA. The Commissioner finds that NHS Property Services Ltd has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

14. 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

15. 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.
16. 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

Andrew White
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Water Lane
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Cheshire
SK9 5AF