

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2022

Public Authority: The NHS Commissioning Board (NHS England)

Address: Quarry House
Quarry Hill
Leeds
LS2 7UE

Decision (including any steps ordered)

1. The complainant requested information from NHS England relating to UK PMIS data. By the date of this notice NHS England had failed to provide a substantive response to this request.
2. The Commissioner's decision is that NHS England 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 England to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 22 January 2021, the complainant wrote to NHS England and requested information in the following terms:

"I am a member of various family support groups for PMIS/MISc/KD. I am looking for a public source of UK PMIS data over the course of the pandemic to date, but have not found any as yet, having asked all the major agencies that I have been passed on to. The CDC in the USA have a monthly update and analysis of cases available to the public. They also record KD cases. They are currently experiencing another spike in MISc cases, as is Sweden. Interestingly KD cases have dropped. We have a wide spectrum of backgrounds and specialisms in the support groups and really need data as part of our valuable and productive processes and discussions. I have been told by the clinical director for children and young people that NHSE are monitoring admissions closely and that PICU ODN's include regional reports on PMIS. I have been in touch with PICU and they say they don't have this data, they only include children with covid. Is this correct? And do you have PMIS data?

I am aware of the ongoing studies on PMIS, which are being passed data, but the results of these are not due out till March and as of now, are not in the public domain.

An important part of our work is to spread awareness in parents to allow them to spot signs, ask the right questions, get prompt diagnosis and achieve the best outcomes for their children. We need to look at data, to see if we need to be ramping this process up before any likely second surge in PMIS. Pro-actively informing parents will minimise alarming media reports and give people confidence in national leadership,

I do hope you can shed some light on this question!."

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

Scope of the case

7. The complainant contacted the Commissioner on 18 December 2021 to complain about the failure by NHS England to respond to her request.
8. The Commissioner has considered whether NHS England 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 5 January 2022, the Commissioner wrote to NHS England, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

12. Despite this intervention NHS England has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that NHS England did not deal with the request for information in accordance with the FOIA. The Commissioner finds NHS England 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Michael Lea
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