

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2022

Public Authority: Department of Health and Social Care
Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant has requested the Department of Health and Social Care (DHSC) to disclose the 'internal ways-of-working review' mentioned by Lord Bethell in Parliament. The DHSC refused to disclose the requested information citing section 35(1)(a) of FOIA.
2. During the Commissioner's investigation the DHSC confirmed that it was now willing to disclose the requested information to the complainant. But despite various communications the Commissioner was unable to get the DHSC to confirm when this would be done.
3. The Commissioner therefore requires the DHSC to take the following steps to ensure compliance with the legislation.
 - Disclose the requested information to the complainant.
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 19 August 2021, the complainant wrote to the DHSC and requested information in the following terms:

"please provide a copy of the "internal way-of-working review" referred to by Lord Bethell at the below Hansard link

[Covid-19 Internal Review - Hansard - UK Parliament](#)"
6. The DHSC responded on 17 September 2021. It refused to disclose the requested information citing section 35(1)(a) of FOIA.
7. The complainant requested an internal review on 20 September 2021.
8. The DHSC carried out an internal review on 24 December 2021 and notified the complainant of its findings. It upheld its initial position.

Scope of the case

9. The complainant contacted the Commissioner on 30 December 2021 to complain about the way their request for information had been handled. They disputed the application of the exemption cited and felt the information should be disclosed.

Reasons for decision

10. At the time of the request the DHSC refused to disclose the requested information as it considered it related to the formulation and development of policy.
11. The Commissioner has received written confirmation from the DHSC that it is now willing to disclose the withheld information, as it no longer wishes to rely on section 35(1)(a) of FOIA. The document is prepared for release; it just requires ministerial approval which is proving difficult to obtain.
12. Considering the age of the request and the extensions already granted to the DHSC, the Commissioner considers it is now important to bring matters to a close and require the DHSC to disclose the withheld information (as it has committed to do so in writing subject to final approval) within a specified timeframe.

13. The DHSC is therefore required to disclose the withheld information as specified in paragraphs 3 and 4 of this notice.

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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF