

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 December 2022

Public Authority: Medicines and Healthcare Products Regulatory Agency

Address: 10 South Colonnade
Canary Wharf
London
E14 4PU

Decision (including any steps ordered)

1. The complainant requested information from Medicines and Healthcare Products Regulatory Agency (MHRA) in relation to thermal cameras and temperature screening products. By the date of this notice MHRA had not issued a substantive response to this request.
2. The Commissioner's decision is that MHRA 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 MHRA to take the following step to ensure compliance with the legislation.
 - MHRA must provide a substantive response to the request in accordance with its obligations under FOIA.
4. MHRA must take this step 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 20 September 2022, the complainant wrote to MHRA and requested information in the following terms:

“All available information on enforcement actions taken by MHRA against those selling thermal cameras and temperature screening products for making COVID-19 diagnosis claims;
All correspondence with manufacturers and/or vendors of non-contact temperature screeners such as thermal cameras
Technical documentation and marketing materials used during investigation and/or received from the manufacturer and/or vendor.”

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

Scope of the case

7. The complainant contacted the Commissioner on 10 November 2022 to complain about MHRA's failure to respond to their request.
8. The Commissioner has considered whether MHRA 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 15 November 2022 the Commissioner wrote to MHRA, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention MHRA has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that MHRA did not deal with the request for information in accordance with the FOIA. The Commissioner finds that MHRA 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF