

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 September 2021

Public Authority: Department of Health and Social Care (DHSC)
Address: 1st Floor North
39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant requested information from the Department of Health and Social Care (DHSC) relating to a meeting between Matt Hancock and Bridgemere and Circle Group concerning the NHS use of private sector capacity.
2. The Commissioner's decision is that the DHSC failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the DHSC to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The DHSC 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 29 March 2021, the complainant wrote to the DHSC and requested information in the following terms:

"Please provide:

A copy of the minutes of and agenda for

The attendance list for

Any civil service briefings prepared for ministers ahead,

Any communications setting up and following up from

The following meeting:

Matt Hancock 2020-01-22 Bridgemere and Circle Group NHS use of private sector capacity.

Please send me this information by e-mail to [email redacted], in a machine readable format such as .csv or .xlsx where appropriate."

6. The DHSC acknowledged the request on 30 March 2021 but had failed to provide a substantive response by the date of this notice, despite the complainant sending in follow up emails dated 15 May and 23 July 2021.

Scope of the case

7. The complainant contacted the Commissioner on 23 July 2021 to complain about the failure, by the DHSC, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the DHSC on 27 August to highlight the outstanding response. She requested that the DHSC respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 21 September 2021 to request a decision notice considering the DHSC's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether DHSC has complied with section 10 of the FOIA.

Reasons for decision

11. 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.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

13. 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.*"

14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the DHSC has breached section 10 of the FOIA.

Right of appeal

15. 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

16. 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.
17. 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