

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 16 November 2021

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

#### **Decision (including any steps ordered)**

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1. The complainant requested copies of scientific evidence relating to a public statement on vaccines. The Department of Health and Social Care ("the DHSC") had failed to respond to the request at the date of this notice.
2. The Commissioner's decision is that the DHSC has 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**

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5. On 13 August 2021, the complainant wrote to the DHSC and requested information in the following terms:

*"I request a copy of the scientific evidence behind the statement "... all COVID-19 vaccines should offer some degree of protection." that can be found in the Department of Health and Social Care's "Guidance on protecting people who are clinically extremely vulnerable from COVID-19" released on 6th August 2021 and updated 11th August 2021."*

6. The DHSC acknowledged the request on the same day but had failed to provide a substantive response by the date of this notice.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 2 October 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 16 October 2021 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 13 November 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 the DHSC has complied with section 10 of the FOIA.

### **Reasons for decision**

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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. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*

- (b) states the name of the applicant and an address for correspondence, and*
  - (c) describes the information requested.*
- 13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
- 14. 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.*"
- 15. 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

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16. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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 .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**