

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2022

Public Authority: Department of Health Northern Ireland
Castle Buildings
Stormont
Belfast
Northern Ireland
BT4 3SQ

Decision (including any steps ordered)

1. The complainant requested information from the Department of Health Northern Ireland (the 'DoH') about the Vaccination Status of Deaths and Hospitalisations on its website. The DoH stated that it did not hold the requested information. The Commissioner's decision is that, on the balance of probabilities, the DoH does hold the requested information and has therefore failed to comply with its duty under section 1(1) of FOIA.
2. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
 - The DoH must either disclose the information that has been requested, or issue a refusal notice that complies with section 17 of FOIA.
3. 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

4. The complainant made the following information request to the DoH on 13 January 2022:

"I notice that weeks 47 to 50 were published, then yesterday weeks 49 to 52 were published. This is very misleading as week 49 & 50 is recorded twice.

1/ Please provide the figure for just weeks 51 & 52."

5. The DoH explained that the figures were aggregated over a four-week period, that it did not hold information by week for the publication and that it would need to create this from "extensive analysis."
6. The requester set out the grounds for internal review, stating that: "clearly the department has weekly statistics." The final position of the DoH is that it does not hold information relating to the request.

Reasons for decision

7. This reasoning covers whether the DoH is correct when it says that it does not hold the information the complainant requested.
8. There is no requirement for the DoH to create information in order to answer a requester's question, its obligation is to supply information it held at the time of the request. However, in the Commissioner's [guidance on determining whether information is held](#) it states
- "If you have the "building blocks" necessary to produce a particular type of information, it is likely that you would hold that information unless it requires particular skills or expertise to put the building blocks together."
9. The raw data that the DoH requires to calculate a figure for a single week is the same raw data that it would use to calculate a four-week average or an average over any other period of time. The DoH clearly holds this raw data and it has not explained why the calculations required go beyond ordinary mathematical functions.
10. On the balance of probabilities, the Commissioner therefore considers that the DoH does hold this information for the purposes of FOIA.

Right of appeal

11. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

12. 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.
13. 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
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Wilmslow
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