

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

### **Decision notice**

**Date:** 3 November 2022

**Public Authority:** UK Health Security Agency  
**Address:** Nobel House  
17 Smith Square  
London  
SW1P 3JR

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

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1. The complainant has requested information from the United Kingdom Health Security Agency ("UKHSA"), in relation to detailed age brackets for SARS-CoV-2 variants of concern and variants under investigation in England. UKHSA advised that it does not hold the information specified, in accordance with section 1(1)(a) of FOIA.
2. The Commissioner's decision is that, on the balance of probabilities, UKHSA does not hold the requested information. However, he has decided that UKHSA did not comply with the requirements of section 10(1) of FOIA, as it did not respond to the request within 20 working days.
3. The Commissioner does not require UKHSA to take any steps as a result of this decision notice.

### **Request and response**

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4. On 23 September 2021, the complainant wrote to UKHSA and requested information in the following terms:  
  
"While the current breakdown into two groups of <50 and >50 allows a very rough assessment into low risk and high risk group, it is not specific enough to evaluate the risk for different age brackets. Only this allows a suitable risk assessment and sufficient data is now

available for representative results.

In addition the vaccination rates at the time of compiling the reports should be given to understand if the values show over- or under representation in regards to prevalence or final outcomes.”

5. On 24 September 2021, UKHSA asked the complainant to clarify their request, to which the complainant responded on the same date, explaining that they wanted the data to be broken down into age brackets.
6. On 9 November 2021, the complainant contacted the UKHSA as they had not received a response to their request.
7. UKHSA responded on 3 December 2021. It stated that it does not hold the information specified and provided details for another public authority who may hold the requested information.
8. Following an internal review, UKHSA wrote to the complainant on 21 February 2021. It stated that it upheld its original position, however, it amended which other public authority would be likely to hold the requested information.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 3 March 2022, to complain about the way their request for information had been handled.
10. The Commissioner has considered whether, on the balance of probabilities, UKHSA holds recorded information within scope of the request and whether it has complied with section 10(1) of FOIA.

### **Reasons for decision**

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11. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
12. UKHSA has explained to the complainant that it does not hold the information and that FOIA does not require public authorities to generate new information or to recompile information, unless this is recorded information that is already held.

13. UKHSA advised the complainant that another public authority would be better to contact as it may hold the requested information. UKHSA also pointed out in their internal review that the other public authority that was originally referred to, was done so incorrectly and within the internal review, they provided the correct public authority, along with their contact details.
14. The Commissioner acknowledges the complainant's arguments, however, he is satisfied that, on the balance of probabilities, UKHSA does not hold the requested information and that the complainant would be best to contact the public authority UKHSA has referred to in their internal review response.
15. Having considered all the circumstances, the Commissioner therefore accepts UKHSA's position that it does not hold the requested information and, as such, UKHSA has complied with section 1(1) of FOIA.

## **Section 10**

16. Section 10(1) of 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".
17. On 23 September 2021, the complainant made their request for information. UKHSA asked the complainant to clarify their request, which they did on 24 September 2021. Following this, the complainant had to contact the UKHSA several times before a response was received on 3 December 2021. This exceeds the requirement to respond within 20 working days under FOIA.
18. From the evidence provided to the Commissioner in this case, it is clear that the UKHSA did not deal with the request for information in accordance with FOIA. The Commissioner finds that the UKHSA has breached section 10(1) by failing to respond to the request within 20 working days.

## Right of appeal

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19. 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)

20. 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.
21. 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**