Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 December 2022

Public Authority: Medicines & Healthcare Products Regulatory Agency (Executive Agency of the Department for Health and Social Care)

Address: 10 South Colonnade
Canary Wharf
London
E14 4PU

Decision (including any steps ordered)

1. The complainant has requested information about adverse reactions to the coronavirus vaccination.

2. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA.

3. The Commissioner's decision is that the MHRA has incorrectly relied upon section 14(1) to refuse the request.

4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.

   - Issue a fresh response to the request not relying upon section 14(1) FOIA.

5. 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 FOIA and may be dealt with as a contempt of court.

Request and response

6. The complainant made the following information request on 10 February 2022:

"The MHRA have encouraged the public and medical fraternity to use the Yellow Card Reporting Scheme as a method to monitor adverse reactions to covid-19 vaccines.

There have been many reports to date of serious adverse reactions including death following injection of the covid19 vaccines. The MHRA explains:

"the MHRA explains: "Many suspected ADRs reported on a Yellow Card do not have any relation to the vaccine or medicine and it is often coincidental that symptoms occurred around the same time as vaccination."

1. Please can the MHRA provide a quantitative report showing evidence that it has formally investigated these occurrences and the conclusions reached?

The MHRA state that where possible deaths occurring within 28 days of someone having the vaccine are investigated.

2. Please can the MHRA provide a report showing evidence of such investigations (with patient anonymity of course) and the conclusions reached?

3. Please can the MHRA provide any report(s) of investigations conducted to ascertain the reasons for any adverse reactions (sever or otherwise) from covid-19 vaccines as reported through the Yellow Card Scheme?

In light of what must be very factors of great concern to anyone submitting to this vaccine, one assumes that the continued use of the vaccine must be based on the conclusion of a verifiable risk assessment.

Could you therefore please provide me with the full basis of evidence, together with all supporting documentation and data, showing that the relevant risk factors fall within the margins of safety to justify continued encouragement to undertake vaccination."

7. The MHRA responded on 14 February 2022. It refused to comply with the request, stating that it was vexatious.

8. On 15 February 2022 the complainant requested an internal review.

9. The MHRA provided the outcome to its internal review on 24 February 2022. The MHRA upheld its original position.

Scope of investigation

10. The Commissioner has considered whether MHRA was correct to refuse to comply with the request under section 14(1) FOIA.

Reasons for decision

Section 14(1) – vexatious requests

11. Section 14(1) of FOIA states:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

12. The Commissioner's guidance[1] states that a vexatious request will represent 'a manifestly unjustified, inappropriate or improper use of a formal procedure.'

13. Some requests will be clearly vexatious whilst other requests will be less clear cut. In all cases, the important question for a public authority to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

14. The Commissioner's guidance also states, 'In some cases, you may believe that several different requesters are acting together as part of a campaign to disrupt your organisation by the sheer weight of FOIA requests they are submitting. Then, you can take this into account when determining whether any of those requests are vexatious.

15. A public authority must have sufficient evidence to substantiate its position that requests have been submitted as part of a campaign. Some indicators of a campaign might be:

[1] https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/what-does-vexatious-mean/

- The requests are identical or very similar;
- The public authority has received email correspondence in which other requesters have been copied in or mentioned;
- There is an unusual pattern of requests, for example a large number have been submitted within a relatively short space of time; or
- A group's website makes an explicit reference to a campaign against the public authority.

16. The Commissioner has previously considered six very similar complaints against the MHRA[2]. These requests were dealt with under IC-160439-J9F2, IC-157922-W9F0, IC-158671-P2H2, IC-165779-Y0C7, IC-162613-G4R6 and IC-161116-G0F3.

17. In these cases, the Commissioner determined that the requests were vexatious because they were part of a campaign and therefore the MHRA was entitled to rely upon section 14(1) to refuse to comply.

18. The MHRA has explained that the request was submitted at a similar time, and using similar wording, to those the Commissioner previously investigated and referred to above. Therefore, the MHRA considered the request was also part of the same campaign and therefore vexatious.

19. However in the internal review in this case, MHRA quoted the request as including the following wording:

"The COVID-19 vaccine quantitative risk assessment data and report which demonstrates that the MHRA Yellow Card vaccine adverse reactions and death reports are NOT the result of the vaccine adverse effects."

20. This does not appear to be the wording of the request (or the request for internal review) provided to the Commissioner by the complainant in support of their complaint.

[2] https://icosearch.ico.org.uk/s/search.html?collection=ico-meta&profile=decisions&query&query=&f.By+authority|publicAuthority=Medicines%20and%20Healthcare%20Products%20Regulatory%20Agency

21. In the complaint to the Commissioner the Complainant has questioned, "This text does not appear in my FOI request so why do they reference it?"

22. Whilst the request in this case was made at a similar time it does not appear to use similar wording and would appear to have been misquoted by the MHRA in the internal review response.

The Commissioner's view

23. For the reasons above, the Commissioner is not satisfied that this request was made as part of a campaign and cannot therefore be categorised as vexatious. Section 14(1) FOIA was incorrectly applied in this case.

Right of appeal

24. 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

25. 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.

26. 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.....

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF