

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 November 2022

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

Decision (including any steps ordered)

1. The complainant has requested a section of the National Risk Assessment relating to infectious diseases. The above public authority ("the public authority") relied on section 24 of FOIA (national security) to withhold that information.
2. The Commissioner's decision is that the public authority is entitled to rely on section 24 of FOIA and that the balance of the public interest favours withholding the information.
3. The Commissioner does not require further steps.

Request and response

4. On 16 January 2022, the complainant wrote to the public authority and requested information in the following terms:

"Would you please send me a copy of the Risk Assessment completed by the Department of Health which supports the conclusion reported in the 'New and Emerging Infectious Disease' section of the 'National Risk Register for Civil Emergencies', published by the Cabinet Office in 2017 that: 'The likelihood of an emerging infectious disease spreading within the UK is assessed to be lower than that of a flu pandemic'."

5. The public authority responded on 11 February 2022. It relied on section 24 of FOIA to withhold the requested information – a position it upheld at internal review.

Reasons for decision

6. Section 24 of FOIA allows a public authority to withhold information if it is required to do so for the purposes of safeguarding national security.
7. The complainant has made three main arguments explaining why they do not consider the exemption is engaged:
 - There are numerous publications which set out the evidence base from which the public authority would have assessed the risk. Since this information is in the public domain, releasing the withheld information is incapable of damaging national security.
 - As a more recent version of the National Risk Register of Civil Emergencies (the unclassified, published version of the National Risk Assessment) has been published, information in older versions cannot, by definition, still be sensitive.
 - The withheld information cannot be a threat to national security because it is "clearly wrong."
8. The public authority has explained in its internal review that the information it is withholding is not the evidence on which the assessment was made (which, it accepted, was largely in the public domain), but the weighting that had been given to that evidence and the general methodology for quantifying the risks considered for the National Risk Assessment. It noted that these methodologies were standardised and were used to assess the likelihood of risks arising across a range of possible civil emergencies – increasing the harm that could arise from disclosure. Finally the public authority noted that, whilst the National Risk Assessment has been updated (to take account of more recent evidence), the underlying methodology has remained the same.
9. The Commissioner agrees with public authority that withholding this information is required for the purposes of national security. Revealing such detailed information about the manner in which the UK assesses various risks (especially given that resources are less likely to be targeted towards areas whose risk rate is assessed as being lower) is likely to expose potential vulnerabilities that could be exploited by malicious actors.
10. The Commissioner is satisfied that the public authority has dealt with the first two arguments advanced by the complainant in its internal review.

11. Turning briefly to the last argument, the Commissioner notes that the National Risk Assessment is just that: it is an assessment of risk. In 2017, it was the Government's assessment that the likelihood of a flu pandemic was higher than that of an emerging infectious disease. As we know, the UK has not experienced a flu pandemic since 2017. It has though, experienced a pandemic caused by an emerging infectious virus (SARS-Cov-2). However, the fact that event B occurred and event A did not, does not mean that event A was always less likely to occur than event B – or will be in the future. There is an inherent uncertainty in assessing risk because events like pandemics are difficult to predict and involve multiple complex variables.
12. The Commissioner is therefore satisfied that section 24 is engaged.
13. On public interest, the Commissioner is satisfied that the public interest favours maintaining the exemption.
14. A considerable amount of information has already been published regarding the UK's preparedness for a pandemic – and the Commissioner has assisted this evidence base by requiring additional documents to be published because of the strong public interest in the matter. The Government already publishes a version of the National Risk Assessment (albeit that it is a qualitative rather than a quantitative assessment) as well as setting out actions it is taking to mitigate risks.
15. It is not clear, from the complainant's arguments, why they think the UK would have been better prepared if it had been focused on an emerging disease pandemic (bearing in mind that "diseases" encompasses a whole array of conditions from sexually transmitted infections to cholera or ebola – each of which requires a very different public health response) instead of a flu pandemic, however there may be a more general point to be drawn, relating to the effectiveness of the methodology itself.
16. Whilst disclosure would allow a greater range of individuals to judge for themselves whether the methodology is adequate and being correctly applied, it would also allow malicious individuals to target threats at perceived vulnerabilities. Any public interest can already be met by having the methodology reviewed and audited by experts in the relevant fields – publication to the world at large is not necessary for this to happen.
17. The Commissioner is therefore satisfied that the balance of the public interest favours maintaining the exemption.

Other matters

18. Given that the Commissioner has had to call out poor request- and complaint-handling practice by the public authority several times in recent months, he considers it only fair to record that, on this occasion, the public authority produced a very good internal review.
19. The internal review was provided in a timely fashion, engaged properly with the counter-arguments offered by the complainant and set out a clear rationale for withholding the information.
20. Whilst the clarity of the internal review did not prevent a complaint to the Commissioner in this instance, it did mean that the Commissioner did not feel the need to seek further submissions on the matter – which will ultimately have reduced the burden on the public authority.

Right of appeal

21. 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

22. 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.
23. 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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