

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 August 2024

Public Authority: UK Health Security Agency
Address: 10 South Colonnade
London
E14 4PU

Decision (including any steps ordered)

1. The complainant has requested information from UK Health Security Agency (UKHSA) regarding the legal verdicts for COVID Vaccine contracts.
2. The Commissioner's decision is that UKHSA has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires UKHSA to take the following step to ensure compliance with the legislation.
 - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of FOIA.
4. UKHSA must take these steps within 30 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

5. On 12 March 2024, the complainant wrote to UKHSA and requested information in the following terms:

"Could you please provide me with a copy of your legal verdict on the COVID vaccine contracts from AstraZeneca, Moderna and Pfizer? To clarify I would like to see a copy of your legal verdict that you presented to government with regards to supply contracts received from AstraZeneca, Moderna and Pfizer for the COVID vaccine?"

6. UKHSA wrote to the complainant on 26 March 2023 to request clarification of the meaning of "legal verdict" in the request. It asked the complainant to:

"elaborate on the term 'legal verdict', by this do you mean a decision/judgement made by a court?"

7. The complainant responded on 26 March 2024 in the following terms:

"I mean your departments verdict"

8. On 24 May 2024, UKHSA wrote to the complainant to explain that it held information relevant to the request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 42 of FOIA.

Reasons for decision

9. Section 1(1) of 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."

10. 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".

11. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.

12. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that "it is best practice for

an extension to be for no more than a further 20 working days".¹ This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.

13. On 16 July 2024, the Commissioner wrote to UKHSA, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
14. In this case, the total time taken by UKHSA has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, UKHSA has not complied with section 17(3).
15. UKHSA is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

¹ [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf \(publishing.service.gov.uk\)](#) 01983615539

Right of appeal

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

Website: 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.

Ben Tomes
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