

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

### **Decision notice**

**Date:** 22 March 2022

**Public Authority:** Department of Health and Social Care

**Address:** 39 Victoria Street  
London  
SW1H 0EU

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

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1. The complainant requested information from the Department of Health and Social Care (DHSC) relating to correspondence and communications between Owen Paterson, the then MP for North Shropshire, and/or Lord Bethell and/or Matt Hancock. By the date of this notice the DHSC had not issued a substantive response to this request.
2. The Commissioner's decision is that the DHSC has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the DHSC to take the following step to ensure compliance with the legislation.
  - DHSC must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The DHSC must take this step 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

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5. On 9 November 2021, the complainant wrote to the DHSC and requested information in the following terms:

"Please note that I am only interested in the direct correspondence and communications of the named individuals in the questions below. Please do not supply the correspondence and communications of anyone acting on their behalf.

Please note that I would like to receive actual copies of any correspondence and communication rather than just excerpts from that correspondence and communication. Any letters should include letter headings, any other design features, and any signature (s). If the council feels the need to make redactions, can you, please redact the material where it appears in the correspondence and communication. That way I can be sure of the extent and location of the redaction.

Please note that the reference to correspondence and communication in the questions below should include all traditional forms of correspondence and communication including letters, memos and faxes, all emails irrespective of whether they were sent through private or official accounts/addresses, all Gmail messages, all telephone conversations, all text messages and all messages and communications sent through encrypted messaging services including but not limited to WhatsApp. In the case of any telephone conversations can you state the date and time of the conversation (s). In the case of each conversation can you supply a written transcript and or audio recording. Please feel free to redact or withhold any aspect of the conversation not related to the request.

1...Between 1 March 2020 and 1 August 2020 did Owen Paterson, the then MP for North Shropshire write to and or communicate with either Lord Bethell and or Matt Hancock, the then Secretary of State. Please note that I am only interested in that correspondence and communication which in any way relates to any and or all of the following.

(i).....The threat to public health posed by covid and the government's proposed and or actual response to that threat.

(ii)...The tendering process for NHS and or Department of Health contracts including but not limited to covid related contracts.

(iii)...The firm Randox and or its areas of expertise and or its products and or its services and or how it might be able to assist in the fight against covid.

(iv)...Randox's interest in specific Department of Health and or NHS contracts including but not limited to covid related contracts.

(v)...Randox's interest in covid related contracts irrespective of whether the Department has any involvement in the awarding of those contacts.

(vi)...How the department may be able to assist Randox in its bid to win covid related contracts.

If the answer to the above question is yes, can you, please provide copies of this correspondence and communication.

2...Between 1 March 2020 and 1 August 2020 did either Lord Bethell and or Matt Hancock write to and or communicate with Owen Paterson. Please note that I am only interested in that correspondence and communication which in any way relates to any and or of the issues and subject areas listed in question one. If the answer is yes, can you, please provide copies of this correspondence and communication.

3...Between 1 March 2020 and 1 August 2020 did Lord Bethell and Matt Hancock write to and or communicate with each other about Owen Paterson and or his representations on behalf of Randox. If the answer is yes, can you, please provide copies of this correspondence and communication. Please note that I am interested in receiving both sides of the correspondence and communication. This will include Lord Bethell's correspondence and or communications to/with Matt Hancock and Mr Hancock's correspondence and or communications to/with Lord Bethell.

4...If documentation relevant to this request has been destroyed can you identify which correspondence and communication has been destroyed and why. In the case of destroyed correspondence and communication which is held in another form can you please provide copies of that correspondence and communication."

6. The DHSC acknowledged the request on 14 December 2021. To date, a substantive response has not been issued.

## Scope of the case

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7. The complainant contacted the Commissioner on 8 February 2022 to complain about the failure by the DHSC to respond to their request.
8. The Commissioner has considered whether the DHSC has complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

## Reasons for decision

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9. Section 1(1) of the 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 the 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. On 14 February 2022 the Commissioner wrote to the DHSC, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the DHSC has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the DHSC did not deal with the request for information in accordance with FOIA. The Commissioner finds that the DHSC has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

## Right of appeal

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14. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

15. 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.
16. 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**