

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 April 2022

Public Authority: Department of Health and Social Care
(DHSC)

Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant made a request for information on 4 February 2022 relating to a contract for the supply of PPE equipment.
2. The Commissioner considers that DHSC has breached section 10(1) FOIA as it has failed to respond within the statutory time for compliance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response to the request in compliance with FOIA.
4. 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 4 February 2022 the complainant requested information of the following description:

"I understand that a contract for the supply of PPE equipment was placed with Ayanda Capital Limited in 2020 for a sum in excess of £250 million.

Under the Freedom Of Information Act 2000, I am requesting copies of any and all correspondence between:

- the DHSC (including any agent acting on their behalf)
- and Ayanda Capital Limited (Co. number 11014884), their directors or employees, other companies connected by shareholdings including any overseas companies, or any agent acting on their behalf.

Please include copies of all written correspondence including emails, as well as notes taken during meetings or conversations and telephone calls. I understand that this involves approx. 1100 emails in total.

However, you may note that this request has been made before but rejected by you. An appeal to the ICO led to you changing the reason for rejection from section 43 to a section 14 refusal. I am therefore changing the request to the extent that I am now asking for correspondence only up to the time when the order was placed - not after that date. This will reduce the burden substantially.

Furthermore, and for your information, I would mention that software is available which is capable of automatically scanning documents using AI to automatically redact predetermined items which could be identified in advance."

6. DHSC failed to respond to the complainant's request.
7. Due to the lack of response, the complainant submitted a complaint to the Information Commissioner's Office on 24 March 2022.
8. The Commissioner wrote to DHSC on 26 March 2022 reminding it of its obligations under FOIA to respond to this request.
9. DHSC failed to provide a response to the complainant or reply to the Commissioner.

Scope of the case

-
10. The complainant contacted the Commissioner as DHSC failed to respond to his request.
 11. The Commissioner has considered whether DHSC complied with its obligations under section 10(1) FOIA in its handling of this request.

Reasons for decision

12. Section 10(1) provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

13. Section 1(1) provides 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."*

14. The original request was made on 4 February 2022 and a response is yet to be provided by DHSC. The Commissioner therefore finds that DHSC breached section 10(1) in failing to provide a response within 20 working days.

Right of appeal

15. 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

16. 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.
17. 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