

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

### **Decision notice**

**Date:** 19 August 2024

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

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

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1. The complainant requested information from the UK Health Security Agency (UKHSA) relating to employees of Public Health England that are registered with the General Medical Council.
2. The Commissioner's decision is that the UKHSA is not entitled to rely on section 12(1) (cost limit) of FOIA to refuse to comply with the request.
3. The Commissioner requires the UKHSA to take the following steps to ensure compliance with the legislation.
  - The UKHSA must issue a fresh response to the request which does not rely on section 12 of FOIA.
4. The 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

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5. On 10 January 2024, the complainant wrote to the UKHSA and requested the information in the annex to this notice.
6. The UKHSA responded on 8 February 2024 and refused to provide the requested information citing section 40(2) (personal information) of FOIA as its basis for doing so. The complainant requested an internal review on the same date.
7. On 7 March 2024, the UKHSA provided the complainant with the outcome of its internal review in which it maintained its position.
8. The UKHSA provided the complainant with a further response to their request on 17 July 2024 in which it revised its position. It stated that it was now relying on section 12(1) (cost limit) of FOIA to refuse to provide the requested information.

## Reasons for decision

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9. This reasoning covers whether the UKHSA is entitled to rely on section 12(1) of FOIA to refuse to provide the requested information. Details of this section of FOIA can be found in the Commissioner's [decision notice support materials](#).

## The UKHSA's position

10. In its submissions to the Commissioner the UKHSA explained that in order to provide the requested information, its professional appraisal and revalidation team would need to search two databases for information within the scope of the request. It explained that its human resources or workforce team would also need to search a database for information within the scope of the request.
11. The UKHSA estimates that it would take its professional appraisal and revalidation team approximately 15 hours in relation to the following information:
  - GMC registered employees at Public Health England (PHE) who were given either a new SARD account or received an annual professional appraisal between 01/04/2021 and the 30/09/2021 (5 hours)
  - Date SARD account opened (1 hour)
  - Annual professional appraisal details (2 hours)

- Appraiser's registered body (2 hours)
  - Did the Responsible Officer recommend to revalidate (5 hours)
12. The UKHSA estimates that it would take its human resources or workforce team approximately 16 hours in relation to the following information:
- Whether or not employees were 'permanent' employees (4 hours)
  - The employees' job titles (4 hours)
  - The employees' job grades (4 hours)
13. The UKHSA also referred to information being manually transferred to a newly created database for merging. This would involve a UKHSA employee copying individual details from one database to another. The UKHSA estimates that this process would take approximately 6 hours.
14. The UKHSA stated that it does not know the precise number of files that would need to be searched in order to provide the requested information as it does not know how many individuals the request relates to. It explained that whilst it has not carried out a sampling exercise, its estimate is based on similar requests that have been undertaken in the past. The UKHSA does not consider there to be a quicker method of gathering the requested information.

### **The Commissioner's position**

15. The task for the Commissioner in a section 12 matter is to decide whether the cost estimate was reasonable. It is for the public authority in question to show the Commissioner that the estimate is "sensible, realistic and supported by cogent evidence".
16. In this case beyond stating that it would be necessary to "gather data" and specifying estimated time for this, the UKHSA has not specified what this time would actually be spent doing. Also, whilst stating that the "precise number files" that would fall within the parameters of the request is unknown, its representations would have been strengthened by giving some indication of the volume of potentially relevant information. Given this absence of detail it is difficult for the Commissioner to find that the cost estimate is reasonable.
17. For example, whilst the UKHSA has stated that it would take approximately five hours to "gather data" on the GMC registered employees at Public Health England (PHE) who were given either a new SARD account or received an annual professional appraisal between

01/04/2021 and the 30/09/2021, the UKHSA has not offered any fuller explanation as to what this estimated five hours would be spent doing.

18. Given this lack of detail, the Commissioner does not consider the estimate provided by the UKHSA to be reasonable. As the Commissioner has found that the cost estimate by UKHSA was not reasonable his decision is that it was not entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

### **Other matters**

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19. The Commissioner expects that when providing a fresh response to the complainant's request in accordance with this notice, UKHSA may consider citing the exemption provided by section 40(2) of FOIA. The first step if doing so will be to establish that the information requested by the complainant constitutes the personal data of any third party. If that information does not constitute personal data, section 40(2) cannot be engaged.
20. If the UKHSA does decide to apply section 40(2) when providing its fresh response to the request, in its response to the complainant the UKHSA should explain why it considers the requested information to be personal data. It should also provide the complainant with advice to help them submit a request which does not engage section 40(2) of FOIA.

## **Right of appeal**

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

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

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**

**Annex – request for information**

“Please send me details in the table below for each general medical council (GMC) registered permanent employee at Public Health England between 01/04/2021 to 30/09/2021 given

- A new SARD account; or
- A annual professional appraisal

Appraisee details				Appraiser details	
Employee job title	Employee job grade	Date SARD account opened	Annual professional appraisal details	Please state Appraiser’s registered body: GMC or UKPHR	Did the Responsible Office recommend to revalidate

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