

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2024

Public Authority: Governing Body of the University of Sheffield
Address: Western Bank
Sheffield
S10 2TN

Decision (including any steps ordered)

1. The complainant has requested copies of studies and reports held by a named professor that provide evidence of the existence of SARS-COV-2. The University of Sheffield ('the University') relied on section 22A of FOIA (research information) to refuse the request.
2. The Commissioner's decision is that the University was entitled to rely on section 22A of FOIA to refuse the request.
3. The Commissioner does not require further steps.

Request and response

4. On 30 September 2023, the complainant wrote to the University and requested information in the following terms:

"This is a formal requirement for records, as per your duty under the Freedom of Information Act 2000 (FOIA).

Description of Records

1. All studies/reports in the possession, custody or control of University of Sheffield Professor [NAME REDACTED] ([REDACTED]) that scientifically prove or provide evidence for the existence of the alleged "SARS-COV-2" (showing that the alleged particle exists and causes the dis-ease that it's alleged to cause).

Note:

Scientific proof/evidence is NOT

Opinions, or

Speculation, or

Review papers, or

Descriptive papers.

Scientific proof/evidence requires use of the scientific method to test falsifiable hypotheses through valid, repeatable controlled experiments where only 1 variable differs between the experimental and control groups.

2. If [NAME REDACTED] has no studies responsive to #1 above, then please indicate such explicitly, and provide all studies and/or reports in [NAME REDACTED]'s possession, custody or control merely describing the alleged "SARS-COV-2" being found in the bodily fluid/tissue/excrement of any sick person and separated from everything else in the patient sample, without the addition of any genetic material. Successful separation must be confirmed via EM imaging and the image(s) must be included as well.

I am aware that according to virus dogma a "virus" requires host cells in order to replicate. I am not seeking records describing the replication of an alleged "virus" without host cells, or that describe a suspected "virus" floating in a vacuum or a strict fulfilment of Koch's Postulates, or private patient records."

5. The University responded on 20 October 2023. It stated that the requested information had already been addressed in previous requests and correspondence. The University advised that it was therefore refusing the request under section 14(1) of FOIA (vexatious request). The University added that it would no longer respond to requests or correspondence from the complainant related to Covid-19.
6. The complainant requested an internal review on 20 October 2023 and 13 November 2023. The University did not provide an internal review response.
7. The complainant contacted the Commissioner on 23 January 2024 to complain about the way their request for information had been handled.

8. On 12 June 2024, the Commissioner issued a decision notice¹ finding that the University was not entitled to rely on section 14(1) of FOIA to refuse the request and ordered it to provide a fresh response to the request that did not rely on section 14(1) of FOIA.
9. The University provided its fresh response to the request on 23 July 2024. It stated that it was relying on section 22A of FOIA to refuse the request.

Scope of the case

10. The complainant contacted the Commissioner on 23 July 2024 to complain about the way their request for information had been handled.
11. The Commissioner considers that the scope of his investigation is to determine whether the University was entitled to rely on section 22A of FOIA to refuse the request.

Reasons for decision

Section 22A of FOIA – research information

12. Section 22A of FOIA applies to information 'obtained in the course of, or derived from, a programme of research', where the research is ongoing, and there is a plan to publish a report of the outcome.
 13. Any such report may or may not include the information that has been requested, without affecting the application of the exemption to the information.
 14. The exemption will include a wide range of information relating to the research project, and will cover information that is not necessarily going to be published. In other words there does not need to be any intention to publish the information that has been requested.
 15. FOIA does not define 'research'. The Commissioner will use the ordinary definition of the term research: a systematic investigation intended to establish facts, acquire new knowledge and reach new conclusions.
 16. In order for section 22A to apply the following criteria must be met:
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¹ [ic-283697-j8j5.pdf \(ico.org.uk\)](https://www.ico.org.uk/for-organisations/our-work/our-work-2024/2024-06-12-foia-325274-k3l1)

- The research programme the requested information is derived from must be ongoing. So long as that research continues, the exemption may apply.
 - The research programme must be 'continuing with a view to the publication... of a report of the research (whether or not including a statement of that information)'.
 - The research programme is continuing 'with a view to the publication, by a public authority or any other person...' of a report of the research. Unlike section 22 where the public authority must have an intention to publish the requested information, even if this is actually carried out by another body, in section 22A any individual, body corporate, public body or private organisation could have the intention to publish a report.
 - The public authority must demonstrate that there is a risk that disclosure of the requested information before the envisaged date of publication would or would be likely to prejudice:
 - the research programme;
 - the interests of an individual participating in the programme;
 - the interests of the authority holding the information; or
 - the interests of a different authority that is going to publish a research report.
17. Section 22A is a qualified exemption which means it is subject to the public interest test.
18. The University has provided the Commissioner with details of the research programme and potential timelines, subject to the outcome of an independent peer review. The University has asked the Commissioner not to include these details in the decision notice at this time. However, the University has confirmed that the research programme is still underway and that it intends to publish a report of the findings of the research.
19. From the information provided by the University, the Commissioner is satisfied that the requested information relates to a research programme that is ongoing.

20. Although there is not an agreed publication date as yet, the Commissioner is satisfied that the University's intention is to publish the findings of the research at a future date.
21. The University has explained that disclosure of the requested information at this time would be likely to prejudice the quality of the research findings by preventing the University from being able to follow its proper completion and peer review processes. It explained that this could allow for misinterpretation and manipulation of the research.
22. The University also explained that disclosure of the requested information would be likely to allow other researchers to carry out analysis and draw conclusions from the data ahead of the publication of the findings of the research. Individuals could then publish their own findings ahead of the planned publication, without having collected the data themselves. The University considers that this would be likely to offer other researchers an advantage over the current study, and jeopardise the University's relationship with its commercial partners.
23. As the exemption criteria detailed above have been met, the Commissioner finds that section 22A of FOIA is engaged. He will now go on to consider the public interest.

Public interest test

Factors in favour of disclosing the requested information

24. The University has acknowledged that there is a public interest in the openness and transparency of research it carries out. It considers that there is also public interest in ensuring that value for money is achieved from public investment, and that commercial partnerships can be scrutinised.
25. The complainant has stated that they do not believe the University holds information related to their request and that they believe the University "is bluffing and stalling in order to avoid public scrutiny of their pseudoscience." The complainant has argued that there is public interest in knowing what information the University holds, or does not hold, about the existence of SARS-COV-2.

Factors in favour of maintaining the exemption

26. It explained that the proper completion of its research and peer review processes allows for higher quality research. It explained that this also guards against a misleading or incomplete view of the ongoing research programme being published without sufficient context, which in this instance could impact the understanding of SARS-COV-2.

27. The University explained that it considers that disclosure of the requested studies or reports at this point, ahead of planned publication, would be likely to result in information and findings entering the public domain without the rigorous scientific commentary and context that would be part of the final publication. It explained that this could allow for misinterpretation and manipulation of the research, with the potential for this to be used in support of pseudo-scientific claims.
28. It also explained that disclosure of the requested information would be likely to allow other researchers to carry out analysis and draw conclusions from the data ahead of the publication of the findings of the research. Individuals could then publish their own findings ahead of the planned publication, without having collected the data themselves. The University considers that this would be likely to offer other researchers an advantage over the current study, and jeopardise the University's relationship with its commercial partners.
29. The University added that disclosure of the requested information at the current time would be likely to prejudice its peer review process. It explained that it is important that there's sufficient time for the peer review process to be completed to allow findings to be examined, and the high standards of research and scientific application to be upheld.

Balance of the Public Interest

30. The Commissioner recognises the public interest in openness and transparency. He acknowledges that there are differing views on the existence of SARS-COV-2, and this leads to a public interest in information about the virus and related programmes of research. However he also recognises that there is public interest in allowing researchers to carry out and complete their work without incomplete findings being published to the world at large. For that reason the Commissioner also agrees that there is public interest in allowing the University the time to complete its peer review process for research to ensure high quality and safeguard against potential misinterpretation of incomplete findings.
31. Having taken the arguments into account, the Commissioner considers that the balance of the public interest favours maintaining the exemption.

Other matters

32. The Commissioner notes that the University provided its fresh response to the complainant outside of the 35 calendar days stipulated by the

previous decision notice. The Commissioner reminds the University that failure to comply with the steps ordered by a decision notice within the prescribed timeframe could result in court action being pursued.

Right of appeal

33. 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

34. 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.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Keeley Christine
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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