

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

### **Decision notice**

**Date:** 4 December 2012

**Public Authority:** Medical Research Council  
**Address:** 1 Kemble Street  
London  
WC2B 4AN

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

The complainant has requested information from the Medical Research Council ("MRC") regarding current and proposed medical research projects. The MRC disclosed some information, however it applied the exemptions under sections 22, 40 and 43 of FOIA to the remainder ("the withheld information"). The complainant had no issue with the application of the exemptions, however he complained to the Commissioner regarding the delays in providing him with all information within the scope of his request. The Commissioner's decision is that the MRC has failed to comply with the provisions of sections 1(1)(a), 1(1)(b) and 10(1) of FOIA. However, since all disclosable information within the scope of the complainant's request has now been provided to him, the Commissioner requires no steps to be taken.

#### **Request and response**

1. On 8 September 2011, the complainant wrote to the MRC and requested information in the following terms:

I would be grateful if you could supply me with the following information with respect to the Medical Research Council - University of Glasgow Centre for Virus Research:-

1. The documents containing Director's review of the Unit of Virology / CVR.
2. The documents containing the strategic needs of the MRC with respect to Virus Research / Virology.
3. The documents containing the strategic needs of the CVR.

4. Details of current and proposed Research projects that are funded or will be funded by the Medical Research Council as this information does not appear accurate and up to date on your website.
2. The MRC responded on 12 September 2011, providing the complainant with information in relation to the first 3 points of his request and asking him for clarification of point 4. The complainant wrote to the MRC on 21 September 2011, clarifying the information he was seeking in point 4 of his request.
3. The MRC responded to the complainant on 25 November 2011. It provided him with some information in relation to point 4 of his request and stated that it was awaiting confirmation regarding further relevant information.
4. The complainant complained to the Commissioner on 13 January 2012, when he had heard nothing further from the MRC. Following the Commissioner's intervention, the MRC carried out an internal review. It wrote to the complainant with the results of that review on 21 June 2012. That review stated that it had identified some further information relevant to point 4 of the complainant's request. It further stated that some of that information was likely to be subject to the exemptions under sections 22, 41 and 43 of FOIA and that it required further time to consider the public interest test.
5. The Commissioner wrote to the MRC on 9 August 2012 requesting that it provide a full and complete response to the complainant within 20 working days, i.e. by 7 September 2012.
6. The MRC responded to the Commissioner on 6 September 2012, stating that it had responded to the complainant on 20 July 2012 and providing the Commissioner with a copy of that response. It provided the complainant with some further information relevant to point 4 of his request and stated that it was withholding the remaining relevant information. It cited sections 22, 40 and 43 as a basis for non-disclosure.

### **Scope of the case**

7. The Commissioner has considered the MRC's handling of the complainant's request for information. Since the complainant has received information in relation to points 1-3 of his request, this decision notice is only concerned with part 4 of the request.
8. The complainant has made it clear to the Commissioner that he has no issue with the application of the above exemptions to the withheld information. He requested that the Commissioner investigate only the

procedural aspects of his complaint. Therefore, this decision notice is solely concerned with how the MRC handled the complainant's request procedurally.

## **Reasons for decision**

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### **Section 1(1) of FOIA**

9. Section 1(1) of FOIA 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.

10. Section 1(3) of FOIA states that, where a public authority
- (a) reasonably requires further information in order to identify and locate the information requested, and
  - (b) has informed the applicant of that requirement,

The authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

11. The MRC responded to the complainant's original request on 12 September 2011, providing information relevant to the first 3 points of his request and asking for clarification regarding the 4<sup>th</sup> point. Therefore, the MRC was not obliged to provide information relevant to point 4 until it had received such clarification, which it did on 21 September 2011.
12. Section 10 (1) of FOIA 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. After having received clarification from the complainant as to point 4 of his request, the MRC did not provide information relating to this until 25 November 2011, which was outside of the 20 working day time limit under section 10(1) of FOIA. Therefore the MRC's response of 25 November 2011 failed to comply with the provisions of section 10(1) of FOIA.

14. The Commissioner wrote to the MRC on 16 February 2012, informing it that its response of 25 November 2011 did not fully comply with the provisions of FOIA, however he suggested that a practical way forward would be for the MRC to carry out an internal review, which was subsequently carried out and provided to the complainant on 21 June 2012.
15. Since the MRC, in its response to the complainant of 20 July 2012, provided him with some further information relevant to point 4 of his request, the Commissioner considers that the MRC held that information and should have provided it by internal review stage at the latest, i.e. by 21 June 2012. The Commissioner considers that the MRC is in breach of sections 1(1)(a) and (b) of FOIA as it failed to inform the complainant that it held such information, and did not communicate it to him within the 20 working day time limit, which means that it is also in breach of section 10(1) of FOIA.
16. Therefore, the Commissioner finds that the MRC is in breach of sections 1(1)(a) and (b) of FOIA and that there have been 2 breaches of section 10(1).

## Right of appeal

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17. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

18. 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.
19. 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 .....**

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