

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

### **Decision notice**

**Date:** 13 September 2021

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

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

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

---

1. The complainant requested from the Department of Health and Social Care (DHSC) information relating to correspondence between Matt Hancock, [name redacted] and [name redacted] regarding [name redacted]. By the date of this notice, the DHSC had not provided a substantive response to the request.
2. The Commissioner's decision is that the DHSC has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the DHSC to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The DHSC 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 29 June 2021, the complainant wrote to the DHSC and requested information in the following terms:

*"I would like to request the following information under the Freedom of Information Act and the Environmental Information Regulations (EIRs). I understand my request will take 20 working days to process but I would be grateful if you could acknowledge receipt.*

*Please note that I am only interested in that correspondence and communications generated between 1 March 2020 and 1 December 2020*

*Please note that the reference to written correspondence and communications in the questions below should include all traditional forms of correspondence such as letters memos and faxes, all emails irrespective of whether they were sent through official or private accounts, all Gmail messages, all text messages and all messages sent through encrypted messaging services including but not limited to WhatsApp.*

*It is likely that some of this correspondence and communication will relate to [name redacted] company [name redacted] and services that [name redacted] and or his company provided or sought to provide in relation to the fight against Covid-19. I should stress, however, that I am interested in all correspondence and communication which either mentions or is about [name redacted] and or his company [name redacted].*

*Please note that I am only interested in communications and correspondence exchanged by the three named individuals and not their private offices acting on their behalf. Please supply actual copies of any correspondence and communications rather than just excerpts. The copies should include all signatures, design features and letter headings and the time and date of which emails and other messages were sent. If you must redact material, can you redact it where it appears in the original message/correspondence. This way I will be able to judge the location and extent of the redactions.*

*Please note that the Environmental Information Regulations cover information relating to the 'the state of human health and safety and conditions of human life.'*

*1....During the aforementioned period did Matt Hancock, the former Health Secretary write to and communicate with any of*

*the individuals listed below about [name redacted] and or his company [name redacted]. For the avoidance of doubt this correspondence and communications will also include messages sent and received via any private email and Gmail accounts as well as correspondence and communication sent through official departmental accounts.*

*(i)..... [name redacted]*

*(ii)..... [name redacted].*

*2....If the answer to question one is yes can you please provide a copy of the written correspondence, the communications, the messages, emails and texts.*

*3...During the aforementioned period did any of the individuals listed below write to and or communicate with Matt Hancock about [name redacted] and or his company [name redacted]. For the avoidance of doubt this correspondence and communication will also include messages sent and received via any private and Gmail accounts as well as correspondence and communication sent through official departmental accounts.*

*(i)..... [name redacted]*

*(ii).... [name redacted].*

*4...If the answer to question three is yes can you please provide a copy of the written correspondence, the communications, the messages, emails and texts.*

*5...During the aforementioned period did Matt Hancock speak to any of the individuals listed below on the telephone or via any video communication system including but not limited to Zoom about [name redacted] and or his company [name redacted]. If the answer is yes, can you, please state the date when these conversations/meetings took place. In the case of each conversation/meeting can you state whether it was a phone conversation or a Zoom meeting or similar. In the case of each conversation/meeting can you state the duration of the conversation. In the case of each conversation/meeting can you provide a recording of the actual conversation (s) meeting. If no recording exists, can you, please provide a transcript of the conversation (s) /meeting*

*or any notes compiled in relation to the conversation or meeting. Please do provide recordings and transcripts even if other individuals joined Mr Hancock and [name redacted] in these meetings/conversations. Please feel free to redact contributors*

*not discussing [name redacted] and or his company [name redacted].*

*(i)..... [name redacted].*

*(ii)..... [name redacted].*

*6...If information relevant to this request has been destroyed can you please provide the following details. In the case of each piece of destroyed correspondence and communication can you state when it was destroyed and why. In the case of each piece of destroyed documentation and communication can you please provide details of author, recipient and date generated. In the case of each destroyed piece of correspondence and communication can you provide a brief outline of its contents. if destroyed documentation of any kind continues to be held in another form, can you please provide a copy of that destroyed correspondence and communication."*

6. On 2 July 2021 the complainant wrote to the DHSC to ask it to acknowledge his request for information.
7. On 30 July 2021, as the complainant had not received a response, he wrote to the DHSC to request an internal review.
8. The DHSC wrote to the complainant on 30 July 2021 to provide him with an update on the status of his information request. By the date of this notice, the DHSC had not provided the complainant with a substantive response to his request.

### **Scope of the case**

---

9. The complainant contacted the Commissioner on 30 July 2021 to complain about the DHSC's failure to respond to his request.
10. The Commissioner contacted the DHSC on 24 August 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 24 August 2021 to explain that the DHSC had been given 10 working days from that date within which to provide a response to their request.
12. The DHSC wrote to the Commissioner on 8 September 2021 to inform her that it had been unable to respond to the complainant's information request within 10 working days.

13. The complainant has provided evidence that he has received an acknowledgement from the DHSC but, by the date of this notice, had not received a substantive response to his information request.
14. The scope of this notice and the following analysis is to consider whether the DHSC has complied with section 10 of the FOIA.

### Reasons for decision

---

15. Section 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.*

16. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
17. The DHSC did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the DHSC has breached section 10 of the FOIA.

## Right of appeal

---

18. 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)

19. 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.
20. 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**