



Home Office

Direct Communications Unit

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Mr Peter Reynolds

request-94623-d14a1ae3@whatdotheyknow.com

Reference: 20870

16 December 2011

Dear Mr Reynolds,

Thank you for your e-mail of 25 November 2011 in which you ask for information regarding the controlled drug domestic licences issued to GW Pharmaceuticals. You have specifically requested copies of all licences granted to GW Pharmaceuticals in relation to the production, possession and supply of cannabis. Your request has been handled as a request for information under the Freedom of Information Act 2000.

I can confirm that the Home Office holds the information that you requested. However, after careful consideration we have decided that the information is exempt from disclosure under sections 30 (1)(a), 41 and 43 of the Freedom of Information Act. These provide that information can be withheld where disclosure would be an actionable breach of confidence or would be likely to, prejudice the prevention or detection of crime and the commercial interests of any person, and the public interest falls in favour of applying these exemptions.

You have also asked for information regarding the fees which organisations are charged when applying for Home Office Controlled Drugs Licences. We believe the information you have requested is already reasonably accessible to you. It can be found at www.homeoffice.gov.uk/drugs/licensing/fees/.

Section 21 of the Freedom of Information Act exempts the Home Office from having to provide you with this information, because it is already in the public domain. If you have any difficulties in accessing this information at the source which I have indicated, please contact me again.

Section 21 is an absolute exemption, which means that no consideration of the public interest test is required to withhold information.

Arguments for and against disclosure in terms of the public interest, with the reasons for our conclusion, are set out in the attached Annex.

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to the address below, quoting reference 20870. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Access Team
Home Office
Ground Floor, Seacole Building
2 Marsham Street
London SW1P 4DF
e-mail: FOIRequests@homeoffice.gsi.gov.uk

As part of any internal review the Department's handling of your information request will be reassessed by staff who were not involved in providing you with this response. If you remain dissatisfied after this internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the Freedom of Information Act.

Yours sincerely,

Mr Lee Smith
Drugs Licensing and Compliance Unit

PUBLIC INTEREST TEST (PIT)

Some of the exemptions in the FoI Act, referred to as 'qualified exemptions', are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The 'public interest' is not the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. The 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public.

The FoI Act is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone, including those who might represent a threat to the UK.

Section 31(1)(a) (Law Enforcement)

"Information is exempt if its disclosure under this Act would, or would be likely to, prejudice, the prevention or detection of crime"

Section 31(1)(a) is a qualified exemption and as such, is subject to a public interest test.

Section 31(1)(a) allows us to withhold information if its disclosure under the Act would, or would be likely to, prejudice the prevention or detection of crime, where the public interest falls in favour of non-disclosure.

In favour of disclosing information

There is a need for the Home Office to be accountable, transparent and open in its issuing of controlled drug licences.

In favour of withholding information

Disclosure of the organisations names could render them potential targets for criminal activity by those wishing to gain access to the drugs they believe these organisations may hold.

Section 41 (Breach of Confidence)

"Information is exempt if its disclosure under the Act would be an actionable breach of confidence."

Section 41 is a qualified exemption and as such, is subject to a public interest test.

Section 41 provides an exemption to the right of access under the Freedom of Information Act if release would be an actionable breach of confidence

In favour of disclosing information

As above for Section 31(1)(a).

In favour of withholding information

It is the general policy of the Home Office not to disclose, to a third party, personal information about another person or organisation. The Home Office has obligations under the Data Protection Act and in law generally to protect this information. Releasing information about GW Pharmaceuticals and their controlled drug licences without their consent would breach the Data Protection Act.

Section 43 (Commercial Interests)

“Information is exempt if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”

Section 43 is a qualified exemption and as such, is subject to a public interest test.

Section 43 allows us to withhold information if its disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority concerned), where the public interest falls in favour of non-disclosure.

In favour of disclosing information

As above for Section 31(1)(a).

In favour of withholding information

Without knowing why you require the information, it is reasonable to assume you may be requesting this information as or for a competitor. The disclosure of the licences which GW Pharmaceuticals hold relating to cannabis would provide insight into the status of the organisation's development and their commercial direction and therefore their competitors would have an unfair commercial advantage.

Conclusion

I have concluded that disclosing the information could damage the commercial interests of the GW Pharmaceuticals and also make them potential targets of criminal activity.

Releasing the information you have requested would not be in the public interest and I have, therefore, decided to withhold the requested information. The potential harm which would likely be caused to the company if the information were to be disclosed outweighs the public interest in disclosure.