

Internal review correspondence (our ref: DE503337)

Date / time email was sent	Details
16/04/2010 11:23	<p>Subject: DE00000500874 Allocation Email - Draft Reply Due: 30/04/2010 - Many thanks</p> <p>Email between FOI team members: "As you know, there's three of these - I'll allocate all to you to see again and close, but will create the IR folders under this case number. Cheers!"</p>
16/04/2010 11:25	<p>Subject: DE00000500876 Allocation Email - Draft Reply Due: 30/04/2010</p> <p>Email between FOI team members: "[Name redacted] led on this, by the way. And, as you probably heard, Graeme wants us to mention the fact that we waived our right to s12 out of helpfulness. Thanks".</p>
16/04/2010 14:01	<p>Subject: DE00000500754 Request for Contribution - Contribution due: 23/04/2010</p> <p>Email from FOI team to policy team: "Just to forewarn you that I will be conducting an internal review into a recent 22-part request from Victoria Dacey on summary care records (DE491463). I'll be getting to grips with this on Monday, but her responses are on Contact under case refs DE500876 and DE500835".</p>
16/04/2010 14:06	<p>Subject: Re: DE00000500754 Request for Contribution - Contribution due: 23/04/2010</p> <p>Email from policy team to FOI team: "I'll get my head around 876 shortly. I will have no contribution to make to 835 since this involves standard DH policy for this type of query".</p>
19/04/2010 15:10	<p>Subject: Internal review - DE500874 – Dacey</p> <p>Email from FOI team to policy team: "Sorry, there were actually three emails from Ms Dacey last Friday. The main bulk of her complaint is actually under DE500874, which I meant to send you instead of the email telling us when our 20 days started. I have started putting all her correspondence, and our response, into an IR template, so if it is helpful, you may prefer to refer to this:"</p> <p><i>[The template referred to was a document containing all previous correspondence. This has not been provided as the information is available via WhatDoTheyKnow]</i></p>
21/04/2010 15:08	<p>Subject: Re: Internal review - DE500874 – Dacey</p> <p>Email from policy team to FOI team: "Please find attached a draft reply (except for Q19) and an attachment referred to at Q12".</p> <p><i>[Please see attached:</i></p> <ul style="list-style-type: none"> • IR491463 Dacey v1; and • IR491463 Dacey Q12 Appendix]

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21/04/2010 16:04	<p>Subject: Re: Internal review - DE491463 - Dacey</p> <p>Email from FOI team to policy team: "Many thanks for addressing the many comments in this IR. I'm in the process of putting the response together, and may be in contact again if I or Graeme have any additional questions".</p>
22/04/2010 12:28	<p>Fw: Internal review - DE491463 – Dacey</p> <p>Email from a FOI team member to Graeme Tunbridge, Head of the FOI team: "I attach the response to Victoria Dacey. Most of it was drafted by [name redacted], but my additions are in blue".</p> <p><i>[For the second draft, please see attached document IR491463 Dacey v2]</i></p>
22/04/2010 14:15	<p>Re: Fw: Internal review - DE500874 - Dacey</p> <p>Email from the Head of the FOI team to a FOI team member: "I scribbled comments; I also can't help wondering whether a bit of context for the appendix (author, for example) might be helpful".</p>
22/04/2010 14:54	<p>Re: Internal review - DE491463 – Dacey</p> <p>Email from FOI team to policy team: "Thanks again for your responses for the IR. Graeme has seen the draft and has suggested adding some more background on the Appendix we are supplying for Q12. At present the draft says it was based on a paper created some 2 to 3 years ago for another purpose, so would it be possible to say a bit more about the author(s) and purpose of the document?"</p>
22/04/2010 15:11	<p>Re: Internal review - DE500874 - Dacey</p> <p>Email from policy team to FOI team: "The original was done in house, intended (though not in the event sent) as part of a submission to the Health Select Committee. It was reused when the then Minister (Philip Hunt) corresponded with Stephen O'Brien later in 2007. The paper was never published. I am not happy with the idea of quoting its provenance in this reply".</p>
22/04/2010 15:16	<p>Re: Internal review - DE500874 – Dacey</p> <p>Email from policy team to FOI team: "Just had a quick look at the draft I sent you. Note that I have twice referred to 'Gilliam' Braunold. The name is, of course, Gillian".</p>
22/04/2010 15:45	<p>Fw: Internal review - DE491463 – Dacey</p> <p>Email from a FOI team member to the Head of the FOI team: "I am forwarding [name redacted]'s email with background information on the appendix, but he is reluctant that we share this in the reply. The letter to Stephen O'Brien is on Contact under PO205381. I attach an updated response (reference to mortality stats removed!)"</p> <p><i>[For the third draft, please see document IR491463 Dacey v3]</i></p>

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26/04/2010 09:57	<p>Re: Fw: Internal review - DE500874 - Dacey</p> <p>Email from the Head of the FOI team to a FOI team member: "I've had another flick through and I'm happy with the response now - please do send out".</p>
26/04/2010 10:20	<p>Re: Internal review - DE491463 - Dacey</p> <p>Email from FOI team to policy team: "Thanks for this. We have left the response to Q12 as it was. Here is a copy of the final response (not including the Q12 appendix), which I will send later today".</p>
26/04/2010 11:03	<p>Re: Internal review - DE500874 - Dacey</p> <p>Email from policy team to FOI team: "I would like to suggest 2 specific (small) changes, and need to raise a more substantive issue on a third.</p> <p>Qs 5&6 : You have deleted my first sentence, probably because of the hint of 'edge' it contains. However, in doing so you have deleted a key component of the rejoinder to the question now posed ie 'why was the decision made ?' (we have covered the 'who' issue at Q4). The answer is this is that it was 'a measure genuinely intended to facilitate requests for further information' - Ms Dacey suggests it was done to 'subvert the opt out process' !!!</p> <p>Qs 7&8 : My inclination was that this 'gloat' did not merit a further response. If you feel some response is absolutely necessary, you need to add the word '<i>precisely</i> how many people' We need to reject the notion that we have 'absolutely no idea ...' We can describe the type of folk who will have (roll-based) access, but this can never be a <i>precise</i> figure because the circumstances of every case will be different, and the overall number of people employed in the NHS is a dynamic one.</p> <p>Qs 19 - 21 : You have cited Section 3, but if you read the applicant's response you will see that she does say 'Please provide answers to these questions based on DOH staff alone'. My response to this would be</p> <p>- Q 19 : to cite S40 re 'performance indicators'. To answer I would need to make enquiries about the business objectives of everyone in scope (having first worked out who these people were !).. As I see it these are essentially private 'contracts' between manager and staff member, whose disclosure (even to me, let alone to a third party) would constitute unfair processing of personal information.</p> <p>- Qs 20/21 : asks for information about an unknowable future outcome. Hence (literally) unanswerable.</p> <p>Happy to discuss further if you are uneasy about any of the above".</p>

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26/04/2010 14:23	<p>Fw: Internal review - DE500874 – Dacey</p> <p>Email from a FOI team member to the Head of the FOI team: "I'm afraid that I haven't sent the Dacey response yet. I sent a final version to [name redacted] for his records, but he has suggested some further changes (below) which I have incorporated into the draft as track changes under Qs 5&6, 7&8 and 19-21: <i>[Please refer to draft document IR491463 Dacey v4]</i> We are well within the deadline, so this is not urgent".</p>
26/04/2010 14:30	<p>Re: Fw: Internal review - DE500874 – Dacey</p> <p>Email from the Head of the FOI team to a FOI team member: "Thanks [name redacted] - I'm happy with the changes so please deliver to Ms Dacey when you're happy to".</p>
26/04/2010 15:01	<p>Re: Internal review - DE500874 – Dacey</p> <p>Email from FOI team to policy team: "Many thanks raising these points. I have incorporated them into the draft, so if you are happy I will send the response"</p>
26/04/2010 15:17	<p>Re: Internal review - DE500874 – Dacey</p> <p>"Thanks. Happy with items 1 and 2.. I attach below a form of words about application of S40(2) which you may care to consider adding to the draft reply re item 3 to better demonstrate consideration of the issue.</p> <p>The disclosure of these details is, in our view, covered by the exemption under Section 40 of the Freedom of Information Act (FOIA). S40(3)(a)(i) exempts personal data from disclosure under the FOIA where this would contravene the data protection principles in the Data Protection Act 1998. The first data protection principle requires data controllers to process personal data "fairly and lawfully".</p> <p>The Information Commissioner has issued specific guidance as to how to apply the fairness test when considering disclosures that may contravene the first data protection principle. The judgment to be made is "whether it would be unfair to someone to pass on their information without consent", taking into account, among other factors :</p> <ul style="list-style-type: none"> • would the person expect that his or her information might be disclosed to others; and • had the person been led to believe that his or her information would be kept secret <p>In our judgement it would be unfair to the staff concerned to pass on the personal information you have asked for since they will have a reasonable expectation that the information should remain confidential and not be readily disclosed to a third party on request".</p>
26/04/2010 15:38	<p>Re: Internal review - DE500874 – Dacey</p> <p>Email from FOI team to policy team: "Thanks - I have added this to the response".</p>

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27/04/2010 09:54	<p>Fw: IR491463 – Dacey – final cut?</p> <p>Email from a FOI team member to the Head of the FOI team: "[Name redacted] has made one further suggestion to expand the s40 argument under Q19, so here is the final version. I will send it later today".</p>
27/04/2010 09:54	<p>Re: Fw: IR491463 - Dacey - final cut</p> <p>Email from the Head of the FOI team to a FOI team member: "Had a quick flick over and looks fine to me".</p>