



5th June 2014

Our ref: NIC-267203-P8P1J

Dear Mr Booth,

Re: Information Request – Freedom of Information Act (FOIA) 2000

I can confirm that the Health and Social Care Information Centre (HSCIC) has considered your appeal against the outcome of your recent Freedom of Information (FOI) request (Sample of “pseudonymised” records purchased by insurers), received on 26th April 2014.

I would like to apologise for the delay in providing you with a response.

I have reviewed your original request, the subsequent response to you and the areas you have raised in your request for an appeal.

Your original request asked for 2,000 records from the set provided to the insurance industry and our response cited s21 of the FOI Act in exempting the information from disclosure. In reviewing all of the information available to me I find that s21 still applies, for the reasons set out below:

1. The original extract provided had to be created as a tailor made report using Hospital Episode Statistics (HES) data and other data not held by the HSCIC. Once an extract has been provided a copy is not kept by HSCIC, as such any further requests for a copy of this data would involve preparing a new tailor made report.

Preparing a tailor made report may require complex analysis to be carried out, and / or require input from external specialists in clinical coding, dependent upon the nature of the request.

Tailor made reports are available upon request from the Data Linkage and Extract Service (DLES) and for this reason section 21 is engaged as the information is already reasonably accessible via other means. As explained, requesting a new extract is the only means of receiving this data *as HSCIC does not hold a copy.*

2. The ICO’s guidance on Section 21 states “The purpose of the section 21 exemption is to ensure that there is no right of access to information via FOIA if it is available to the applicant by another route.” Furthermore section 21(2)(a) states that information may be regarded as reasonably accessible to the applicant “even though it is accessible only on payment”. This has been tested with both the ICO and First Tier Tribunal (*Matthew Davis v Information Commissioner and the Health and Social Care Information Centre (EA/2012/0175, 24 January 2013)*). The First Tier Tribunal found “The evidence clearly establishes that HSCIC publishes whatever it reasonably can without charge and that its tailor – made service involves charges that are moderate in relation to the work, skill and time involved”

You refer to CAG applications and that you believe only around a half of all applications receive data and if DLES is similar, ask how this can be considered accessible. It is important to realise that

applications to CAG are for support (legal basis) to be able receive identifiable data not for the data itself. Upon receiving approval from CAG an applicant would then need to apply to the organisation who is the data controller for the data they are seeking.

I trust the points above provide a fuller explanation as to why the exemption under s21 is applicable and why I am unable to uphold your appeal.

In line with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. Therefore, a version of our response which will protect your anonymity will be posted on the HSCIC website.

I trust you are satisfied with our response to your request for information. However, if you are not satisfied, you may request a review from a suitably qualified member of staff not involved in the initial query, via the enquiries@hscic.gov.uk email address or by post at the above postal address.

I will assume that your request to the organisation is now closed.

Yours sincerely,

Dawn Foster
Head of Information Governance

Further information about your right to complain under the Freedom of Information Act is available from the Information Commissioner's Office, Wilmslow, Cheshire, and on The Information Commissioner's website www.ico.gov.uk.

The Health and Social Care Information Centre values customer feedback and would appreciate a moment of your time to respond to our Freedom of Information (FOI) Survey to let us know about your experience. Please access the survey through this link

https://www.surveymonkey.com/s/HSCIC_FOI_Feedback