

Date: 4 October 2021  
Our Ref: 2021-000730  
Enquiries to: [phs.foi@phs.scot](mailto:phs.foi@phs.scot)

Dear Ms Cunningham

**Freedom of Information reference: FOI 2021-000730**

I refer to your request of 24 August 2021 requesting an internal review of the response made to the request FOI 2021-000730.

**"1. You effectively advise that, coincidentally, you already planned to publish information relating to my request within 12 weeks and by "October 2021", which would require publication by October 4th 2021 to comply with FOISA.**

**You have provided no pre-existing written information prior to receiving my request of 13 July 2021 that confirms a pre-existing intent to publish by 4th October 2021. For transparency, it would be helpful for me to receive by return any such documentation.**

**I note whilst you assert a "planned schedule for release" this is not supported by the PHS website as PHS does not currently list the publication of the IMT report of the investigation as a forthcoming publication for October 2021 or earlier, which is now just 6 weeks from your FOISA latest required publication date of 4th October 2021.**

**2. My request for a range of original documentation and correspondence is clearly not just for your interpretation of the information I requested to be provided as a summary - "summary of the information requested" as you state. Much of the information requested is for its original format, and can and should be made available now.**

**3. A specific request has been made for a range of information, including the "hot debrief" document that would have been completed probably in H1 2020 and widely disseminated to stakeholders. You advise delay is also to ensure all stakeholders receive information at the same time. The document "Management of Public Health Incidents: Guidance on the Roles and Responsibilities of NHS Led Incident Management Teams" repeatedly requires the "hot debrief" document and other related documents to have already been widely shared and to be accessible to stakeholders. Thus withholding all information requested, including any hot debrief documentation, from the general public for 12 weeks I would argue is not justified, and not in the public interest.**

**4. The Edinburgh Nike Conference outbreak was in February 2020.**

**It is, as I am sure you are aware, critical that practice and learning from this Covid outbreak was disseminated by the IMT during and as soon after the outbreak to relevant stakeholders (including Health Boards and Councils) as the outbreak was brought under control and/or shortly afterwards. As above, "Management of Public Health Incidents: Guidance on the Roles and Responsibilities of NHS Led Incident Management Teams" requires this to take place. It is thus in the public interest that the same information is now more widely circulated and also made available to the public so the public too can inform its government's policy, and practice response. Again, I can see no justifiable reasoning why none of the information requested is being made available as of now.**

**5. You have not identified or set out in your response any competing arguments as to why the public interest would be served by publication now of the different strands of information requested, as required by FOISA. Thus it is not possible to understand or easily contest how you arrived at the decision on balance of argument to delay providing the information requested."**

An internal review has now been completed. The review has considered the original response provided to you in line with the points you have raised above. The review consisted of an examination of the procedure followed by internal staff and the findings which followed the search undertaken for relevant information.

In considering each of your points in turn please be advised of the following;

The Public Health Scotland response to the COVID-19 pandemic has impacted on the publication of the Incident Management Team report for the outbreak associated with a conference in Edinburgh.

The forthcoming publications section of our website is a list of the statistical publications that we are planning to release and feeds into the Scottish Government calendar of statistical releases. As this is not a statistical release it would not appear on this list. The decision to publish was made early 2021 as shown by the email (attached pdf file, titled 'Email Correspondence FOI-2021-000-730 Redacted').

The information from the documents associated with this incident will be included in the incident management report.

Please be advised that "Management of Public Health Incidents: Guidance on the Roles and Responsibilities of NHS Led Incident Management Teams" is guidance and not mandatory. We have reviewed the activity from the Incident Management Team and a specific hot debrief did not take place for this incident and no formal recommendations from the Incident Management Team are available.

The learning around COVID-19 is a continuous process and as the pandemic has evolved this has been used to inform the wider response to the pandemic in Scotland. An academic paper summarises some of the early findings on the whole genomic sequencing on this topic (da Silva Filipe, A., Shepherd, J.G., Williams, T. *et al.* Genomic epidemiology reveals multiple introductions of SARS-CoV-2 from mainland Europe into Scotland. *Nat Microbiol* 6, 112–122 (2021). <https://doi.org/10.1038/s41564-020-00838-z>).

Public Health Scotland can advise that the release of the report will bring together all the elements from the incident into one place.

We have also considered objectively both sides of the public interest test for and against disclosure of the data requested, under s.27(1) Freedom of Information Act 2002 Intention to publish.

We appreciate that disclosure may help to assist in the reflections and response to the Covid-19 pandemic.

However, as advised the learning around COVID-19 is a continuous process and with significant data involved around Covid-19 early disclosure would lead to repeated processes as we are already due to publish this data, increasing the cost and expenditure of public money.

Therefore, although there are legitimate public interest reasons under the exemption on both sides, overall we can confirm that Public Health Scotland has acted in accordance with the legislation by applying the exemption s.27(1) intention to publish and the data will be released to all the stakeholders at the same time. The decision taken is to uphold the original response. Please be assured that we will provide this data at the time indicated.

If you are dissatisfied with our response; then you have the right to make a formal complaint to the Scottish Information Commissioner within six months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

Yours sincerely

**Nicholas Phin**  
Director of Public Health Science  
**Public Health Scotland**