



Department of Health & Social Care

Freedom of Information Team
Department of Health and Social Care
39 Victoria Street
London
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www.gov.uk/dhsc

Mr Sam Smith
request-588728-3b6f68cb@whatdotheyknow.com

31 October 2019

Dear Mr Smith,

Freedom of Information Request Reference FOI-1182708

Thank you for your request dated 10 July in which you asked the Department of Health and Social Care (DHSC):

"Dear Department of Health and Social Care,

This morning the Secretary of State promoted work by Amazon to make NHS information available via Alexa smart speakers.

We understand there is an agreement in place between Amazon and DHSC/NHS covering some aspects of this feature

Please provide a copy of that agreement, and any referenced documents within it which are not otherwise in the public domain (such as an impact assessment or business case for doing any custom work on the NHS side) "

Your request has been handled under the Freedom of Information Act (FOIA).

I can confirm that the Department holds information relevant to your request. A redacted version of the agreement with Amazon can be found at:

<https://www.contractsfinder.service.gov.uk/Notice/919533b2-4d46-4c72-bf2b-4e320cff572e>

You will note that a limited number of clauses have been redacted (blacked out) from the agreement. We consider that this information is exempt under Section 43(2) of the FOIA, which exempts information where the release would, or would be likely to, prejudice the commercial interests of any entity, including the public authority holding the information. This information has therefore been redacted from the agreement that is published on Contracts Finder.

In this case, we consider that the release of the redacted clauses would be likely to prejudice the commercial interests of Amazon on the basis that it would make public the non-standard terms that Amazon has been willing to enter into in respect of this agreement. We consider that this would harm Amazon's negotiating position when entering into agreements with other parties in the future, which in turn would be likely to prejudice their commercial interests. Additionally, disclosure of the redacted clauses is likely to prejudice existing agreements between Amazon and other parties, which could result in other parties challenging Amazon over the terms and conditions of their agreements.

Section 43 is a qualified exemption and, as such, we are required to consider whether the public interest falls in favour of releasing or withholding the information.

We recognise that there is a general public interest in the disclosure of this agreement given its high-profile nature and the general obligation of government to act with transparency and accountability. There is also a public interest in securing the best use of public resources and in ensuring fair commercial competition.

As mentioned above, the redactions to the agreement withhold certain commercially sensitive information that is exempt under section 43(2) FOIA, as to disclose that information would be likely to prejudice the commercial interests of Amazon, both for future negotiations and potentially for existing agreements with other parties.

In the case of this agreement, there is a general public interest in protecting the commercially sensitive information from disclosure. We consider that disclosure would be likely to cause third parties to be reluctant to enter into agreements with public authorities if they knew that commercially sensitive information contained within agreements could be disclosed and therefore prejudice their commercial position.

The public interest in the disclosure of the agreement with Amazon is largely focussed on the issue of sharing personal data. The redacted clauses in the agreement cover unrelated commercial issues and therefore do not advance the public understanding of the issue of sharing personal data.

Although there is public interest in understanding the arrangements between the DHSC and Amazon, we determine that this will have been achieved by the unredacted information about the agreement that has been published, because of the reasons set out above. It is therefore our view that the public interest in withholding the redacted information outweighs the public interest in supplying it. In addition, certain personal information, will also be redacted in the agreement. This information is exempt from disclosure under Section 40(2) of FOIA as disclosure of this personal information would breach the data protection principles. In particular, we consider that the disclosure of this personal information would be unfair and breach the first data principle.

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the address at the top of this letter, or the email address at the end of this letter.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner (ICO) who may decide to investigate your concerns. Generally, the ICO cannot make a decision unless you have already appealed our original response, and received our internal review response. The ICO will not usually investigate concerns where there has been an undue delay in bringing it to their attention. You should raise your concerns with them within three months of your last meaningful contact with us.

The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

<https://ico.org.uk/concerns/>

Yours sincerely,

Ed Franklyn
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