



Department  
of Health &  
Social Care

*Freedom of Information Team  
Department of Health and Social Care  
39 Victoria Street  
London SW1H 0EU*

[www.gov.uk/dhsc](http://www.gov.uk/dhsc)

Mr Nicholas Wheatley

By email to: [request-1170936-6a547956@whatdotheyknow.com](mailto:request-1170936-6a547956@whatdotheyknow.com)

2 October 2024

Dear Mr Wheatley,

**Freedom of Information Request Reference FOI-1530259**

Thank you for your request dated 3 September to the Department of Health and Social Care (DHSC), a copy of which can be found in the accompanying annex.

Your request has been handled under the Freedom of Information Act 2000 (FOIA) and I apologise for the delay in responding.

DHSC holds information relevant to your request.

However, we believe that this information is exempt from disclosure under section 36 of the FOIA which provides an exemption for information whose disclosure would, or would be likely to, prejudice the effective conduct of public affairs.

In particular, section 36(2)(b)(i) and (ii) and (c) provides that information is exempt from disclosure if, in the opinion of a 'qualified person' (in this case a Minister of the Crown), its disclosure would prejudice the free and frank provision of advice or exchange of views for the purposes of deliberation, or would otherwise prejudice, or be likely to prejudice, the effective conduct of public affairs.

We can confirm that in this case, a qualified person, namely the Minister of State for Care, Stephen Kinnock MP, has provided such an opinion.

Meetings with the Parliamentary and Health Service Ombudsman (PHSO) are intended to provide a forum for deliberations and candid discussions on sensitive or live issues. In particular, they provide a safe space for the PHSO and DHSC officials to discuss and advise on key issues, themes and sensitivities covering a range of topics.

Section 36 is a qualified exemption, and we have therefore considered whether the public interest in disclosing the information outweighs the public interest in withholding it.

DHSC recognises the general public interest in making this information available in the interests of greater transparency and openness.

There is also a public interest in understanding how the Government interacts with other public bodies and this increases trust in the decision-making process.

On the other hand, there is a public interest in PHSO and officials being able to express their views and concerns freely and frankly. Disclosure of details of these discussions could impact on the willingness of the parties to have candid conversations going forward. This would be detrimental to the public interest, and we consider that avoiding that detriment outweighs the public interest in disclosure in this particular case.

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 sent to [freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk) or to the address at the top of this letter and be submitted within two months of the date of this letter. Please remember to quote the reference number above in any future communication.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner's Office (ICO). Generally, the ICO cannot make a decision unless you have already appealed our original response and received our internal review decision. You should raise your concerns with the ICO within three months of your last meaningful contact with us. Guidance on contacting the ICO can be found at <https://ico.org.uk/global/contact-us> and information about making a complaint can be found at <https://ico.org.uk/make-a-complaint>.

Yours sincerely,

Freedom of Information Team  
[freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk)

## Annex

From: Nicholas Wheatley <request-1170936-6a547956@whatdotheyknow.com>

Sent: Tuesday, September 3, 2024 6:30 PM

To: FreedomofInformation <freedomofinformation@dhsc.gov.uk>

Subject: Freedom of Information request - Communication with the PHSO re. NHS Continuing Healthcare

Dear Department of Health and Social Care,

Please provide all correspondence (emails, letters, etc) between the Department of Health and Social Care and the PHSO (Parliamentary and Health Service Ombudsman) ON THE TOPIC OF Continuing Healthcare, between 1/9/23 and 1/9/24

Please also provide the dates of any meetings between the PHSO and DHSC ON THE SUBJECT OF Continuing Healthcare, between 1/9/23 and 1/9/24

Please also provide minutes of the above meetings.

Yours faithfully,

Nicholas Wheatley