



David Osborn

By email to: [request-1088414-88303c2c@whatdotheyknow.com](mailto:request-1088414-88303c2c@whatdotheyknow.com)

31 May 2024

Annex A: DHSC response to initial request

Annex B: Request for internal review

Dear Mr Osborn,

## **FREEDOM OF INFORMATION ACT 2000 (FOIA): INTERNAL REVIEW**

### **CASE REFERENCE: IR-1513267 (FOI-1497474)**

You originally wrote to the Department of Health and Social Care (DHSC) on 17 February requesting information relating to 'the PPE Decision-Making Committee'. We responded to you on 15 May and a copy of our response, including the full text of your request, can be found in Annex A.

You subsequently emailed DHSC on 16 and 22 May requesting an internal review into the handling of your original request. A copy of your email can be found in Annex B.

The purpose of an internal review is to assess how your Freedom of Information (FOI) request was handled in the first instance and to determine whether the original decision given to you was correct. This is an independent review as I was not involved in the original decision.

In your request for an internal review submitted on 16 May, you have stated that the information we sent you was not what you wanted. You have clarified that you require the minutes of the "DHSC PPE Decision Making Committee".

The information sent to you was done so on the understanding that it was what you were requesting. Please accept our apologies for the misinterpretation. There was no other board in DHSC that made decisions on PPE.

I can confirm, therefore, that DHSC does not hold the information you have requested. This is because no such committee called "DHSC PPE Decision Making Committee" exists/has existed. On this basis, I have concluded there is no reason to address the points raised on 22 May.

## Conclusion

After careful consideration, I have concluded that the response you received to your FOI request was non-compliant with the requirements of the FOIA. This is because your request was mis-interpreted.

The review is now complete.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by DHSC.

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,

Mr D Stanton  
FOI Internal Reviews  
[freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk)

## **Annex A: DHSC response to initial request**

Mr David Osborn

By email to: [request-1088414-88303c2c@whatdotheyknow.com](mailto:request-1088414-88303c2c@whatdotheyknow.com)

15 May 2024

Dear Mr Osborn,

### **Freedom of Information Request Reference FOI-1497474**

Thank you for your request dated 17 February 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). We apologise for the length of time it has taken to respond.

DHSC holds information relevant to your request, which is provided in the five documents attached.

Please note that some names and contact details have been redacted, as the personal data of officials and staff below senior level is exempt from disclosure pursuant to section 40(2) of the FOIA. Section 40(2) provides for the protection of personal information which would not otherwise be available in the public domain, as disclosing this information would contravene data protection principles.

Further information has also been redacted under section 43(2) of the FOIA, which exempts from the general duty to release information which would, or would be likely to, prejudice the commercial interests of any entity, including the public authority holding the information.

Section 43 is a qualified exemption and, as such, we are required to assess the public interest in withholding this information against that of its release.

We recognise the general public interest in making information available in the interests of greater transparency and openness, and a valid public interest in disclosing information about services that are procured using public money. However, we also take into account the fact that this information is commercially sensitive. Disclosure of certain information may place a third party at a commercial disadvantage, which would discourage future commercial partner relationships with DHSC, and consequently undermine DHSC's ability to fulfil its role in securing best value for money. Therefore, DHSC takes the view that, in this case, the public interest lies in ensuring that this information is not disclosed.

A small number of redactions have also been made under section 31(1)(a)(b)(c) and (g) of the FOIA, which is where disclosure of information may prejudice: a) the prevention or detection of crime; b) the apprehension or prosecution of offenders; c) the administration of justice; and g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2).

Regarding our use of 31(1)(g), where section 31(2) is engaged, we are claiming the following purposes:

- a) ascertaining whether any person has failed to comply with the law; and
- b) ascertaining whether any person is responsible for any conduct which is improper.

Section 31 is a qualified exemption and, as such, we are required to assess the public interest in withholding this information against that of its release.

DHSC is aware that there is a clear public interest in disclosure of information and recognises that openness in government may increase public trust in and engagement with government. It also recognises a public interest in assuring the public that effective arrangements are in place for the prevention and detection of crime.

However, our assessment is that the release of this information, at this time, may undermine an ongoing investigation, and/or prejudice the outcome of any future court proceedings. It may also be contrary to the public interest to disclose information which would facilitate the commission of crime. Consequently, DHSC is satisfied that this information remains exempt under section 31(1)(a)(b)(c) and (g) of the FOIA.

We can confirm that DHSC does not hold any further minutes of this Committee's meetings. This Committee was organised and led by the Cabinet Office (CO), so we suggest that you may wish to direct your request to the CO in terms of any further meetings. Requests under the FOIA can be submitted to the CO at the following mailbox: [foi-team@cabinetoffice.gov.uk](mailto:foi-team@cabinetoffice.gov.uk).

However, we are holding recorded information which confirms that meetings on 22 June and 26 June did not take place, as they were cancelled.

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: David Osborn <request-1088414-88303c2c@whatdotheyknow.com>

Sent: Saturday, February 17, 2024 10:54 PM

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

Subject: Freedom of Information request - DO-17 Request minutes of PPE Decision Making Committee

Dear Department of Health and Social Care,

Please would you provide any minutes or notes of meetings of the PPE Decision-Making Committee that have taken place since 1 Jan 2020. I have not been able to find them published online. However, if they are available online then it will be sufficient to provide the link, together with confirmation that this represents ALL of the meetings held.

I do not know how many such meetings took place and if there is any risk of you denying this request on the grounds of 'excessive cost' then please just provide the information for as many of the meetings (from 1/1/2020 in ascending chronological order) as you are able to within the time constraints allowed.

That said, it would be pretty poor administration for a Government Department if these weren't all filed neatly in one place. It should not, therefore take long to locate and provide them.

If any meetings were held but no minutes or notes were taken of that meeting (knowing that certain parties favoured proceeding being conducted under the 'Chatham House

Rule'), then it will be sufficient to provide one email issued to attendees giving the date that the meeting was to be held (ideally an email with the agenda).

Yours faithfully,

David Osborn

## Annex B: Request for internal review

From: David Osborn <[request-1088414-88303c2c@whatdotheyknow.com](mailto:request-1088414-88303c2c@whatdotheyknow.com)>  
Sent: Thursday, May 16, 2024 1:22 AM  
To: FreedomofInformation <[freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk)>  
Subject: Internal review of Freedom of Information request - DO-17 Request minutes of PPE Decision Making Committee

[You don't often get email from [request-1088414-88303c2c@whatdotheyknow.com](mailto:request-1088414-88303c2c@whatdotheyknow.com). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Department of Health and Social Care,

Please refer this request to whoever deals with internal reviews / appeals. I request an internal review of this Fol.

Thank you for your response and the minutes that you provided which related to the "PPE Clearance Board". Unfortunately you have not answered the question which you were asked. It was the minutes of the "DHSC PPE Decision Making Committee" (DMC) which I had requested, not the "PPE Clearance Board".

In your letter of 15 May you have redirected me to the Cabinet Office to obtain this information. Given that I am 100% certain that you in DHSC will have been sent copies of the minutes of this committee you should have provided me with those documents in line with the duty imposed on you to assist Fol requestors - and you should still provide them, even if they are only copies.

If it helps, I am happy to narrow down the scope of the request to minutes of that committee which were held in July 2020. If there were less than 3 meetings during July 2020 then please would you include the meetings held during August 2020 as well - or at least as far as your cost allocation for Fol's permits.

Yours faithfully,

David Osborn

From: David Osborn [request-1088414-88303c2c@whatdotheyknow.com](mailto:request-1088414-88303c2c@whatdotheyknow.com)  
Sent: Wednesday, May 22, 2024 5:21 PM  
To: FreedomofInformation [freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk)  
Subject: Internal review of Freedom of Information request - DO-17 Request minutes of PPE Decision Making Committee

Dear Department of Health and Social Care,

Further to my request for an internal review dated 16 May I would like to make it clear that, as a part of that internal review, I would also like you to review the exemptions which you claimed under the public interest test for redaction under section 43(2) and section 31(a)(b)(c) and (g) to ensure that they are valid and lawful.