

Information Governance

Barts Health NHS Trust
702 John Harrison House
London E1 2DR
Tel: 07710064950

25th October 2019

Dear Mr Courtney

Your Request for Information: FOI-0630-19 – Internal Review

Thank you for your email dated 30th September 2019 in which you asked for an internal review of our response to your Freedom of Information (FOI) request for information relating to HIV Gilead Kivexz Trial.

I have now completed the review. I have examined the relevant information, and have considered whether the correct procedures were followed and assessed the reasons why the Trust did not disclose this information. I can confirm that I was not involved in the original handling of your request so am independent in conducting this review.

The Trust's response of 23rd September 2019 did not disclose the information that you have requested. It engaged the following exemptions:

Section 22(A) – Research information

Section 40 – Personal information

Section 22(A) provides that information obtained in the course of, or derived from, a programme of research is exempt information if –

(a) the programme is continuing with a view to the publication, by a public authority or any other person, of a report of the research (whether or not including a statement of that information), and



(b) disclosure of the information under this Act before the date of publication would, or would be likely to, prejudice —

(i) the programme,

(ii) the interests of any individual participating in the programme,

(iii) the interests of the authority which holds the information, or

(iv) the interests of the authority mentioned in paragraph (a) (if it is a different authority from that which holds the information).

Section 40 provides an exemption from the right to information if it is personal data.

I have considered your original request and the response provided by the Trust and the reasons why sections 22(A) and 40 were cited. I can confirm that these exemptions have been correctly applied to your request for the reasons we have already provided, although I would like to specify that the personal data is exempt under Section 40(2) specifically as it is personal data of third parties and disclosing personal data of the staff in question would not be lawful in line with principle (a) of the GDPR.

The balance of the public interest in respect of the Section 22(A) exemption was correctly assessed in favour of maintaining the exemption and not disclosing the data requested.

Having reviewed all of the correspondence between yourself and the Trust in relation to this request, I also consider Section 14(1) to be applicable. Section 14(1) does not oblige a public authority to comply with a request for information if the request is vexatious. The language and tone that you have used in your correspondence goes beyond the level of criticism that employees should reasonably expect to receive. There is an indication in your emails that you hold a personal grudge against the Trust and other public bodies. You have also made unfounded accusations against employees both in the team that hold the data that you are requesting, and the Information Governance team. These are all factors that support use of Section 14(1).

My conclusion is that the original response was correct to engage exemptions 22(a) and 40(2), and not to disclose the information and that section 14(1) also applies to this request.

This completes the internal review process by Barts Health NHS Trust. If you remain dissatisfied with the response to your FOI request, you have the right to complain to the Information Commissioner's Office. You can see options for contacting them at www.ico.org.uk or write to them at:

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

Yours sincerely

Sarah Palmer-Edwards
Head of Information Governance