



## Department of Health

Ann Reeves  
request-145532-7e210b5d@whatdotheyknow.com

*Room 352C  
Skipton House  
80 London Road  
London  
SE1 6LH*

26 June 2013

Dear Ms Reeves

**Our ref: IR745054**

Thank you for your e-mail of 26 May, in which you requested an internal review of your original FOI request (our ref: DE00000745054).

### **Chronology**

Your original request of 10 December 2012 asked the following:

'I would be grateful if you could supply the full minutes of your round table discussions about the LCP with all the major stakeholders involved, along with the communications you have exchanged with them all on this matter...'

### **We replied to you on 10 January as follows:**

'Preparation for the independent review of use of the Liverpool Care Pathway (LCP) is currently under way and the Department will announce the Chair and the Terms of Reference shortly. The review's report and recommendations will be published by the summer of 2013. We intend to publish the roundtable meeting note as part of the review.'

'The Department takes the view that any public interest in the disclosure of this information will be satisfied by the publication of the review in the near future.'

### **In your request for an internal review on 26 May you state:**

I am writing to request an internal review of Department of Health's handling of my FOI request 'LCP/statistics'.

In order to engage s22 (information intended for future publication) you must be able to show clearly which information within the scope of a request it intends to publish. It is not sufficient to say that it will identify for publication some, but not all, information within the

scope of the request.

As I understand you only intend to publish the conclusions of the 'impartial review panel'.

Public confidence in the panels' conclusions is going to be seriously decreased as they appear to have deliberately appointed people who are far from 'impartial', and are on the record as saying they like the liverpool care pathway, and all submissions to the review were pre-sorted by people who work for the NHS End of Life Care Network ....

## **The Review**

Your internal review request was for 'full minutes of your round table discussions about the LCP with all the major stakeholders involved....'. In response we wrote to let you know that we intend to publish the note of the meeting in due course and applied a section 22 exemption.

We have considered the correspondence, our use of section 22 of the FOI Act to withhold information and the public interest arguments that were presented and, when reviewing our original reply, I noted a firm intention to publish *all* of the information that you have requested (i.e. the meeting note).

However, in the course of this review we have determined that our previous response may be incorrect, as the minutes may or may not be published as part of the Review report and recommendations. This is because the Review Panel is independent of Government and, as such will determine for itself which documents will form part of the publication.

We maintain that the intention to publish the minutes was in place at the time of your request and the intention remains. It may be necessary, however, to change the means by which the document is released. This means that in the event that the minutes are not published as part of the Liverpool Care Pathway review report during summer 2013, the Department of Health will itself make them available to you immediately following the publication of the review.

## **Conclusion**

Taking all of the above factors into account, we have concluded that the section 22 exemption still applies to this information.

In making this decision, we have considered the public interest in both releasing and withholding the information.

### **Factors in favour of disclosure:**

- Promoting the accountability and transparency of public bodies

### **Factors in favour of maintaining the exemption:**

- The report and recommendations of the Independent Review are due for publication during summer 2013. If the minutes are not published as part of the Review, the Department will itself make them available following the publication of the Review.
- The Department maintains the view that any public interest in the disclosure of this information will be satisfied by the publication of the requested information in the near

future.

We have reviewed the arguments for and against release and maintain that the arguments against release of this information are robust.

The internal review which you requested is now complete.

If you are not content with the outcome of this internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

Yours sincerely

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Michelle Hinds  
Freedom of Information Team  
Department of Health