



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

Mr Ivan Graham

By email to: request-797914-5f9af382@whatdotheyknow.com

21 October 2021

Dear Mr Graham,

Freedom of Information Request Reference FOI-1366383

Thank you for your request dated 7 October, in which you asked the Department of Health and Social Care (DHSC):

“Please confirm or deny if the Department of Health and Social Care has undertaken or commissioned any work since 2016 assessing the impact of multi-indication pricing of pharmaceuticals on the NHS.

Please supply any work the Department of Health and Social Care has undertaken or commissioned since 2016 assessing the impact of multi-indication pricing of pharmaceuticals on the NHS.”

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

I can confirm that the Department holds information relevant to your request.

However, we consider that this information is exempt under Section 43 of the Freedom of Information Act (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 a general public interest in how reimbursement prices are determined for pharmaceuticals used by the NHS.

However, we also take into account the fact that this information is commercially sensitive as the work in question was undertaken to inform the Department’s negotiating strategy for agreeing the terms of the 2019 Voluntary Scheme for Branded Medicines Pricing and Access (VPAS), an agreement that has been worth nearly £1.7bn to the NHS since 2019. This information remains commercially sensitive as it will continue to be used for such purposes when negotiating the successor to VPAS, ahead of the expiry of the current deal at the end of 2023.

Therefore, we consider that releasing this information would not be in the public interest, as disclosure would prejudice the confidentiality of the Department's negotiating positions in future negotiations, and so undermine our ability to reach a positive outcome that protects the NHS budget whilst ensuring patients have access to new innovative medicines. Should you wish to better understand the Department and the NHS's overarching approach to pharmaceutical pricing you may wish to review the 2019 VPAS agreement and the 2021 NHS England Commercial Framework for New Medicines both of which are publicly available.

Furthermore, we also consider that this information is exempt under Section 35(1)(a) of the FOIA, which provides protection for the information that relates to the formulation or development of Government policy. Section 35 is a qualified exemption and requires consideration of the public interest test.

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

However, the DHSC takes the view that the section 35 exemption is intended to ensure that the possibility of public exposure does not deter from full, candid and proper deliberation of policy formulation and development, including the exploration of all options.

Civil servants and subject experts need to be able to engage in the free and frank discussion of all the policy options internally, to expose their merits and demerits and their possible implications as appropriate. Their candour in doing so will be affected by their assessment of whether the content of such discussion will be disclosed. Premature disclosure of information protected under section 35 could prejudice good working relationships and the neutrality of civil servants.

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 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.

The ICO can be contacted at:

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

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

Yours sincerely,

Michael Pierson
Freedom of Information Officer
freedomofinformation@dhsc.gov.uk