



## Department of Health

Freedom of Information Team  
Department of Health  
G18, Richmond House  
79 Whitehall  
London SW1A 2NS

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

Ms Christine England  
email address: <mailto:request-353408-6efdcac9@whatdotheyknow.com>

26 July 2017

Dear Ms England

### **Freedom of Information Request Reference FOI 1088964**

I refer to your request dated 28 June 2017 to the Department of Health (DH), which is attached hereto. This was a follow-up to your previous requests of 20 August 2016 (our ref: FOI 1047275), 2 October 2016 (our ref: FOI 1053054) and 6 March 2017 (our ref: FOI 1077254).

Your request is being handled separately in the following parts:

- (a) as a request for an internal review of your previous request of 6 March (our ref: FOI 1077254)
- (b) as a subject access request under section 7 of the Data Protection Act 1998 (DPA) on the basis that your request included a request for your own evidence
- (c) as a new request for information under the Freedom of Information Act (FOIA).

This letter is in response to part (c), your new request for information under the FOIA.

Part (b) is being handled by the Data Protection team in DH, who will respond to you separately in accordance with the DPA. Part (a) is being handled by different officials in DH, who again will respond to you separately, in accordance with the FOIA and as soon as the internal review is complete.

In relation to the four files you have requested, I can confirm that DH holds this information. However, we are withholding this information under sections 40(2) and 41(1) of the FOIA.

Section 40(2) exempts personal information where disclosure would breach one or more of the data protection principles. In this case DH is satisfied that disclosure of personal data of third parties would breach, in particular, the first data protection principle on fair and lawful processing on the basis that it would be unfair to disclose their personal data.

Section 41(1) exempts information provided in confidence to DH by another person, where disclosure would give rise to an actionable breach of confidence. In determining whether disclosure would be a breach of confidence, we have also considered whether a defence of public interest would be available to DH and we are satisfied that it would not because there are no overriding public interest factors in favour of disclosure of the relevant information.

Both section 40(2) and 41 are absolute exemptions and not subject to the public interest test.

In relation to your request for specific details of the report, including "*I would also like to know whether the report recommended removal of substantial merit awards to certain medical staff*", we are relying on section 41(2) of the FOIA (information provided in confidence) to neither confirm nor deny whether any information is held as to do so would itself involve the disclosure of exempt information.

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 submitted within two months of the date of receipt of the response to your original letter and should be addressed to the address at the top of this letter, or the email address at the end of this letter.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner (ICO) who may decide to investigate your concerns. Generally, the ICO cannot make a decision unless you have already appealed our original response, and received our internal review response. The ICO will not usually investigate concerns where there has been an undue delay in bringing it to their attention. You should raise your concerns with them 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  
Cheshire  
SK9 5AF

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

Yours sincerely,

Dorothy Crowe

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