

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 December 2022

Public Authority: Department of Health and Social Care (DHSC)
Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant made a request for information relating to research to support the clinical practice of the application of the Hare PCL:SV within clinical NHS in the UK. DHSC confirmed that it does not hold information falling within the scope of the request under section 1(1)(a) FOIA.
2. The Commissioner considers that DHSC was correct to confirm that it does not hold information falling within the scope of the request under section 1(1)(a) FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. The complainant made the following information request on 10 August 2022:

"In view of the July 2015 The Health and Social Care Act 2008 and the Risk Society/Risk Assessment agenda, can you please confirm that the Department of Health and Social Care and NHS have prospective research for their respective populations and published results to support the clinical practice of the application of the Hare PCL:SV within clinical NHS in the UK, and please clarify the research, and the dates relative to the supporting evidence?"
5. On 2 September 2022 DHSC responded, it confirmed that it did not hold the requested information under section 1(1)(a) FOIA, it explained that:

“Neither DHSC, nor the National Institute for Health Research (which is part of DHSC), holds information relevant to your request.

With respect to your reference to any NHS research, we suggest that you may wish to contact NHS England”.

It also provided the complainant with contact details for NHS England.

6. The complainant requested an internal review on 13 September 2022.
7. DHSC provided the outcome of the internal review on 22 September 2022, it upheld its position.

Scope of investigation

8. The Commissioner has considered whether DHSC was correct to confirm that it does not hold information falling within the scope of the request under section 1(1)(a) FOIA.

Reasons for decision

9. Section 1(1) FOIA provides that:

“Any person making a request for information to a public authority is entitled –

 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.”
10. In the complaint to the Commissioner the complainant argued that:

“The department of health is claiming that it does not hold any data pertaining to the validation of the Hare PCL:SV and yet it has published guidance that clearly defines that guidance has been published and that there is supposed to be validation of the instrument, and as it has been applied in clinical NHS in the UK, then there would be a legal duty to ensure its validation or that would be creating even bigger issues as that would mean that an instrument that has severe consequences for those who it has been applied upon has been applied when the Department of Health has not ensured that the instrument is lawfully valid for application/use in the UK in clinical NHS settings and this would amount to negligence.

The manual specifically states that the instrument can only be applied in instances where it has been validated, and yet it would appear that those who have the legal duty to validate the instrument have not validated it for use in clinical NHS in the UK.”

11. Whilst DHSC has confirmed that it doesn't hold the requested information it has directed the complainant to make the request relating to research to NHS England.
12. On the balance of probabilities the Commissioner is satisfied that the requested information is not held by DHSC. It is however open to the complainant to make a new request for this information to NHS England as directed by DHSC.
13. DHSC has therefore complied with its obligations under section 1(1)(a) FOIA in this case.

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from: First-tier Tribunal (Information Rights)

GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: grc@Justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed.....

Gemma Garvey
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF