

Letter via email

Ref 702,703,704: Freedom of Information Requests

Dear [REDACTED]

The Office of the National Data Guardian has considered your Freedom of Information requests dated 19th December:

- Please send me a copy of all correspondence between NDG personnel and DeepMind, between January 1st 2016 and the date of this request.
- Please send me a copy of all correspondence between NDG personnel and Royal Free London NHS Foundation Trust, between January 1st 2016 and the date of this request. I am only interested in material that relates to Royal Free's ongoing work with DeepMind.
- Please send me a copy of the letters that NDG has sent, both to the ICO and the MHRA, about Royal Free's work with DeepMind. (As described in section seven of the minutes of the NDG meeting held on Wednesday 19th September 2016).

After careful consideration we are of the view that the release of this information ahead of the conclusion of the investigation into the sharing of information by the Royal Free London NHS Foundation Trust with Google DeepMind being conducted by the Information Commissioner's Office could have an adverse impact upon their case. We therefore consider this information to be exempt from disclosure by virtue of Section 31 (1) (g), (2) (c) of the Freedom of Information Act 2000.

Section 31 (1) (g) and (2) (c) states:

1) Information is exempt if its disclosure under this Act would, or would be likely to, prejudice—

g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),

(2) The purpose referred to in subsection (1) is:

- c. the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,

As Section 31 of the FOIA is a qualified exemption we have carefully considered not only whether the exemption applies in this case, but also whether the public interest in withholding the information is greater than the public interest in disclosure.

We recognise there is a potential public interest in enabling the public to gain a greater understanding of the workings of the Office of the National Data Guardian and the issues involved in this case. However, we believe the greater public interest is served by not releasing the information requested while the Information Commissioner's Office continues its investigation.

In line with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. Therefore, a version of our response which will protect your anonymity will be posted on the [NDG web pages](#) on gov.uk.

We trust you are satisfied with our response to your request for information. However, if you are not satisfied, you may request a review from a suitably qualified member of staff not involved in the initial query. The Office of the National Data Guardian is currently hosted by NHS Digital, although we are operationally independent of that organisation. If you wish for a review, this can be requested by emailing enquiries@nhsdigital.nhs.uk.

Yours sincerely

Lindsey Blake
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Office of the National Data Guardian