Medicines & Healthcare products Regulatory Agency

10 South Colonnade
Canary Wharf
London
E14 4PU
United Kingdom
gov.uk/mhra

[redacted]

13 June 2023

FOI **23/349**

Dear [redacted]

Thank you for your information request, dated **16 May 2023**, where you asked several questions related to work on potential pandemic pathogens and infectious agents, as follows:

- Do you hold any potential pandemic pathogens (PPPs) in any of your labs? If yes, what are they?
- Are you working with any infectious agents under a Specified Animal Pathogens Order (SAPO)? If yes, what are they?
- If applicable, what biosecurity level is used during work with PPPs and SAPO infectious agents?
- Are you currently carrying out any gain of function work, or experiments to enhance the infectiousness of transmissibility of PPPs or SAPO infectious agents?
- Have you had any incidents of biosecurity lapses, leaks or safety breaches in the past five years? If so, can you list these?

ICO guidance advises that there may be cases when confirming or denying information is held can – in itself – disclose information which would be exempt, or which could prejudice the interest an exemption is there to safeguard. In these circumstances, the FOIA allows a public authority to give a 'neither confirm nor deny'

('NCND') response. This means that the public authority can respond by refusing to inform the requester whether or not they hold any information.[1]

Section 24(2) applies where neither confirming nor denying that the information requested is held is required for the purposes of safeguarding national security. This includes the protection of potential targets of terrorist or criminal activity. It allows a public authority to neither confirm nor deny whether information is held if it considers that either confirming or denying would be likely to make the UK or its citizens more vulnerable to a national security threat. The ICO guidance on this exemption [2] makes it clear that safeguarding national security includes protecting potential targets even if there is no evidence of an imminent attack.

We have assessed your request and consider that the subject matter falls within this category. The UK continues to be a target for terrorists and terrorist groups, and we are aware of these risks in connection with a wide range of hazardous substances; this includes the subject of your request, potential pandemic pathogens and infectious agents under SAPO. We therefore neither confirm nor deny whether the information you have requested is held under section 24(2) of the FOIA.

Section 24(2) is a qualified exemption, which means that we are required to consider whether the public interest in confirming or denying that the information is held is outweighed by the public interest in neither confirming nor denying that the information is held.

In favour of confirming or denying, we consider that there is a general public benefit where confirmation or denial demonstrates openness and transparency, and where this could inform the public and contribute to public scrutiny and debate. However, this must be balanced against the greater public interest in ensuring that any confirmation or denial does not itself provide intelligence that could be useful to those who may be minded to commit terrorist or criminal acts.

In respect of the specific information you have requested, safeguarding national security is the strongest public interest and we have concluded that the public interest favours neither confirming nor denying that the information is held on this occasion.

Refs:

[1] When to refuse to confirm or deny holding information | ICO

[2] Section 24 – Safeguarding national security | ICO

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If you disagree with how we have interpreted the Freedom of Information Act 2000 with regards to your request, you can ask for the decision to be reviewed. The review will be carried out by a senior member of the Agency who was not involved with the original decision.

If you have a query about the information provided, please reply to this email.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date you receive this response and addressed to: info@mhra.gov.uk

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

If you were to remain dissatisfied with the outcome of the internal review, you would have the right to apply directly to the Information Commissioner for a decision. Please bear in mind that the Information Commissioner will not normally review our handling of your request unless you have first contacted us to conduct an internal review. The Information Commissioner can be contacted at:

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

Yours sincerely,

MHRA Customer Experience Centre
Communications and engagement team
Medicines and Healthcare products Regulatory Agency
10 South Colonnade, Canary Wharf, London E14 4PU

Telephone 020 3080 6000