

FW: Re: FOI 23/1008 - Freedom of Information request

[REDACTED]
Thu 25/01/2024 17:53

To: [REDACTED] MHRA Customer Services
<MHRACustomerServices@mhra.gov.uk> [REDACTED]
[REDACTED]

Sent this afternoon.

See below final response for your records.

From: FOILicensing
Sent: Thursday, January 25, 2024 5:52 PM
To: [REDACTED]
Subject: Re: FOI 23/1008 - Freedom of Information request
Importance: High

Dear [REDACTED]

Many thanks for your email of 25 December 2023, where you asked for details of action taken in relation to a data integrity complaint made by you.

Unfortunately we can neither confirm nor deny we hold information relevant to your request. Section 40(5) and Section 41(2) of the Freedom of Information Act (FOIA) absolves us from the requirement to say whether or not we hold information.

Before setting out the reasons for reaching this conclusion, it should be noted that requests made under the FOIA are requests for information to be released into the public domain. For example, all responses we send out are published on our website and anyone can request to see a previous FOI response that we have sent out. Your request refers to an alleged complaint made in connection with certain safety concerns - because of the public nature of FOIA, the key question that a public authority must ask itself when deciding how to respond to an FOIA request is whether the information is suitable for disclosure to anyone and everyone. Particularly here, we need to consider whether simply confirming or denying if we hold the requested information would, in itself, disclose someone's personal data to the 'world at large'.

Protecting personal data: S.40(5)

When a request is made asking whether someone has made a complaint to MHRA about a particular subject, we would always respond by saying that we cannot publicly confirm or deny whether a particular complaint has been made or an investigation has taken place. Any report or complaint made by a person will necessarily contain their own personal information – the details about themselves and their concern that they initially provide to the public authority when they contact us – and applying the 'neither confirm nor deny' exemption means that we do not publicly reveal any details which could lead to the general public being able to identify if a person has made a complaint or not. The Information Commissioner's guidance explains how, in these cases, even confirming or denying that the requested information is held could reveal personal information: "When a public authority provides confirmation or denial under FOIA as to whether it is holding someone's personal data, it is, in fact, disclosing to the world personal data about identifiable individuals. It is saying "we have information about this person in respect of this request" or "we do not have information about this person in respect of this request". If it is entitled to rely on Section 40(5) in this case, it is saying, "we are not obliged to make any comment under FOIA about whether we hold the requested information."

Under FOIA, it is important that we do not reveal the identity or personal information of a person who may have made a complaint, or whether a complaint has not been made, through confirming or denying that we hold information about them or their complaint. This is why we will always apply the Section 40(5) exemption in such cases and neither confirm nor deny that the information is held.

Confidentiality and protecting whether information has been provided to us in confidence: section 41(2)

We assure all those who wish to raise a concern or complaint about wrongdoing that any issue they raise will be treated confidentially, and that the information they give to us is 'provided to us in confidence'. Raising concerns confidentially means that a complainant provides MHRA with their details in confidence. We encourage people to raise their concerns confidentially by providing their name and contact details. Doing so makes it easier to assess the issue and to contact them for further information or clarify the information provided. We will take steps in any investigation to ensure that confidentiality is maintained and will endeavour to protect the identity of the person who raised the concern. Details of investigations are kept confidential and shared on a need-to-know basis only, so it might not be possible to provide outcomes or detailed feedback on disclosures made.

By emphasising confidentiality for the person who has made the complaint and for any investigation that may follow, we encourage people to contact us without the fear that their identity could be made public. We also encourage people to provide their name and contact details to help us assess the issue that they've raised; this is important, because if details are vague, or insufficient, it may not be possible to initiate an investigation.

Protecting the identities of complainants and the details of their complaints not only helps us to assess and investigate the complaint thoroughly and efficiently, it gives anyone who wishes to raise an issue the confidence to come forward. If we begin releasing these details and complaints through FOIA, or confirming if complaints have been made, people will no longer be confident that we can protect their identity, and this would mean that less people would be willing to contact us to raise issues. We must maintain this confidentiality if we are to encourage people to come forward.

In FOIA terms, this explicit assurance of confidentiality in these circumstances means that any request for information about a complaint or possible investigation will also engage a second exemption; this is the Section 41(2) exemption which applies when a request is asking for information that would have been provided in confidence to MHRA. In these cases, we apply the Section 41(2) exemption to neither confirm nor deny whether we hold the information if it is a type of information that would have been provided to us in confidence. This applies to any initial complaint made and also applies to any information created in any subsequent investigation; this is because any investigation would be looking at the points raised by the whistle-blower, and so revealing details about any investigation would also reveal details of the original complaint.

The Information Commissioner has confirmed this approach in one of her published decisions. Appeal FS50696135 concerned a request for an investigation report into a whistle-blower's complaint (<https://ico.org.uk/media/action-weve-taken/decision-notices/2018/2258248/fs50696135.pdf>). In that appeal, the Commissioner agreed that an investigation following a whistle-blower's complaint would include information about the concerns raised, the areas investigated and any outcomes. The Commissioner considered that, in such cases, any investigative areas and actions will be drawn from the public authority's analysis of the whistle-blower's complaint, and that during the course of an investigation further information will be provided in confidence to the public authority. On this basis, she agreed that if information related to an investigation following a whistleblower's complaint, the Section 41 exemption would apply to the original complaint and the subsequent investigation. Under FOIA, if we confirm or deny that we hold information about a particular complaint or investigation, this would publicly reveal if a particular complaint had

been made or an investigation took place; this public confirmation would breach the confidentiality that we provide to those who contact us to raise concerns. In these circumstances, Section 41(2) allows us to neither confirm nor deny whether we hold the information if confirming or denying would itself be a breach of confidence.

To conclude, we consider that the Section 40(5) and Section 41(2) exemptions apply to your request, and neither confirm nor deny whether the information is held.

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,

The FOILicensing Team

MHRA

From: [REDACTED] >
Sent: Monday, December 25, 2023 6:26 AM
To: MHRA Customer Services <MHRACustomerServices@mhra.gov.uk>; whistleblower <whistleblower@mhra.gov.uk>
Cc: [REDACTED] Modern Slavery Helpline <info.mshelpline@unseen.uk>
Subject: FOI 23/1008 - Freedom of Information request

Respected sir/madam.

Good morning, hop you are all doing well. [REDACTED]. I would like to request you the information under freedom of information act 2000. I reported about [REDACTED] in 2017. Then one of the MHRA inspectors called [REDACTED]

[REDACTED]
[REDACTED]
Inspection, Enforcement and Standards Division (IE&S)
Medicines, Healthcare and Products Regulatory Agency (MHRA)

I would like to know what is MHRA action in relation to the DATA integrity complaint made by me. And is that MHRA can conform that they do consider or not consider the INVESTIGATION report from the [REDACTED] y me. If [REDACTED]

consider what is the basis for that and if not what action you took to protect the victim. I believe same time they do take [REDACTED] dose MHRA know what happened to him?.

I believe MHRA failed to comply modern slavery act 2015, part 5, 52 **Duty to notify Secretary of State about suspected victims of slavery or human trafficking.**

Please kindly provide the details if possible.

Thank you

Kind regards
[REDACTED]

DISCLAIMER This email and any files transmitted with it are confidential. If you are not the intended recipient, any reading, printing, storage, disclosure, copying or any other action taken in respect of this email is prohibited and may be unlawful. If you are not the intended recipient, please notify the sender immediately by using the reply function and then permanently delete what you have received. Incoming and outgoing email messages are routinely monitored for compliance with the Department of Health's policy on the use of electronic communications. For more information on the Department of Health's email policy, click [DHTermsAndConditions](#)