

By email to [REDACTED]

**Tel** 020 7269 1900  
**Web** [www.hta.gov.uk](http://www.hta.gov.uk)  
**Email** [enquiries@hta.gov.uk](mailto:enquiries@hta.gov.uk)  
**Date** 21 December 2020

Dear [REDACTED]

### **Freedom of Information request**

Thank you for your request for information under the Freedom of Information Act (FOIA). Your initial communication of this matter (letter) was received by the Human Tissue Authority (HTA) on 17 November 2020 and your request was clarified by email on 27 November 2020. Your email outlined the following request:

Please proceed with the request regarding copies any report/documentation of the investigation into [REDACTED] missing organ and King's College London as a request under the freedom of information act.

### **Response**

In response to your request under the Freedom of Information Act 2000, we undertook a broad and inclusive search for information that could fall within the scope of the request. Working under the accepted presumption that all relevant information would be released (subject to any applicable redaction or exemption), it was reviewed on the basis that releasing it could place it in the public domain.

Following the information review, our decision is to withhold the information (comprising 'any report/documentation of the investigation') relating to this incident on the basis of section 31(1)(g) leading to 31(2)(c) of the Freedom of Information Act 2000, on the belief that its disclosure would be likely to prejudice our regulatory functions. The HTA's functions, which are set out in general terms at section 15 of the Human Tissue Act 2004 ('the Act'), include superintending compliance with requirements under Part 1 of the Act and with Codes of Practice made under the Act. In line with our role in superintending compliance with the Act, Human Tissue Authority Reportable Incidents (HTARIs) are reported by licensed establishments,

investigated and corrective actions taken to avoid repeated incidents. We previously set out, in some detail, an explanation of the HTARI process – and our role in it - in our communication with you dated 27 November 2020.

We are of the opinion that there is a real and significant risk that the prejudice referred to above would occur if the requested information was released. The HTA needs establishments to provide frank and detailed reports; we have genuine concerns that disclosure of this information would make licensed establishments less likely to provide full and frank reports of incidents for fear that details will end up in the public domain, thus inhibiting future communications and reporting. There is enough evidence of concern from licensed establishments about us publishing more details than we already do and that disclosing reports could engender adversarial relationships, impacting our ability to conduct investigations efficiently and effectively.

As required, we have applied the public interest test and determined that the balance is in favour of us **not releasing** the requested information:

#### *Public interest in disclosing the information*

We acknowledge there is a public interest in transparency around incidents of this nature and, while we also understand the family's interest in this case, we feel that the information that we already publish on HTARIs is sufficient to explain how we have characterised the incident. We also note that the information we hold has been provided by the Trust and the family has legitimate recourse through the Trust; for example, through its complaints process.

#### *Public interest in maintaining the exemption*

Following a review of the information which could fall within the scope of this request, we consider that there is no indication of a systematic failure and the public interest is better served by not undermining full and frank reporting of HTARIs when weighed against the public interest of revealing fuller details where disclosure will not provide further meaningful insight into the incident that has occurred.

#### *Balance of the public interest*

Disclosing information within the scope of the request will not provide further meaningful insight into the incident and, on balance, we therefore take the view that the public interest in disclosing this information does not outweigh the public interest in preserving the safe space needed to continue the flow of free and frank information between licensed establishments and the HTA.

## Further information

If you are unhappy with the way the HTA has handled your request for information in this case, you may in the first instance ask us for an internal review by writing to us at the above postal or email address.

If you remain dissatisfied with the handling of your request or complaint, you have the right to appeal directly to the Information Commissioner for a decision, at the address below. There is no charge for making an appeal.

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

Telephone: 08456 30 60 60 or 01625 54 57 45

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

Yours sincerely

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