

Human Tissue Authority
151 Buckingham Palace Road
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By email to [REDACTED]

Tel 020 7269 1900
Web www.hta.gov.uk
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Email enquiries@hta.gov.uk
Date 20 February 2017

Dear [REDACTED]

Section 10(3) consideration of a Freedom of Information Act request

On 6 February, I wrote to you to respond to a request you made to the HTA on 7 January, for a copy of an HTA reportable incident (HTARI) report prepared by [REDACTED] and our response to [REDACTED].

In my letter, I set out that the HTA was treating our consideration of your request as an exceptional circumstance, under Section 10(3) of the Freedom of Information Act (FOIA).

We took this decision to extend our review to determine the balance of public interest for the use of a Section 31(1)(g) exemption. This qualified exemption allows public authorities, such as the HTA, to not disclose information, if the release of that information,

“would, or would be likely to, prejudice the exercise by any public authority of its functions for...”

31(2)(c) *“the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance on any enactment exist or may arise.”*

Relying on this exemption, the HTA has not released an HTARI report under FOIA. It is our policy not to disclose information submitted to us as part of investigations or any report provided at the conclusion of investigations. This is because we consider that to do so would have an adverse impact on the likelihood of incidents being reported to us by the establishments we regulate [REDACTED], and on the quality of any documentation that establishments report to us.

We also consider that to release such reports would be likely to result in regulated establishments providing us with more guarded information, as they might fear adverse publicity, which could in turn become a risk to public safety.

Our assessment is that by deterring the submission of detailed reports and frank information, because of the prospect of disclosure, we would clearly prejudice our supervisory functions, and would make it more difficult for us to establish whether formal regulatory action is required in specific cases.

We decided to look at your request more closely because at that time, we understood that ████████ did not object to disclosure. For the reasons given above, however, we also wanted to take into account the position of other regulated establishments. In other words, if disclosure of an individual report would have an impact on our overall reporting framework.

Response

Upon careful consideration, the HTA has decided not to disclose the HTARI report to you. This is because we believe that an individual disclosure may have an impact on the reporting framework as a whole and may prejudice the exercise of our regulatory functions.

With regard to the release of our response to ████████, we have assessed that the general public interest of transparency outweighs the exemption to disclose the information we hold. As such, the letter from the HTA to ████████ is attached.

We understand that you may be disappointed by us not releasing the report. However, when an exemption under the Freedom of Information Act applies, we can only disclose information that we hold if there is a public interest to do so. As a regulator, we need to balance being both open and transparent, with our role of securing public confidence and safety, through our regulatory functions. We must, where appropriate, use the Section 31(1)(g) exemption to effectively fulfil our remit of securing public confidence and safety.

This means ensuring that those we regulate provide us with the right amount of reporting to effectively supervise them when things go wrong, so that the public can have confidence in our regulation. It also means maintaining that public confidence by showing what we expect establishments to do to mitigate similar incidents from happening again. Our response to ████████ clearly sets this out.

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

Yours sincerely

