



# Department of Health & Social Care

Freedom of Information Team  
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Mr Wynne Jones  
[cj-editor@biggeesblog.cymru](mailto:cj-editor@biggeesblog.cymru)

6 January 2021

Dear Mr Jones,

## **Freedom of Information Request Reference FOI-1272906**

Thank you for your request dated 15 November 2020 in which you asked the Department of Health and Social Care (DHSC):

***“I refer to an article published in the Times newspaper 18 October 2020. An abstract from the article is reproduced below.***

### ***Abstract from article published in Times dated 18 October 2020***

***Experts decry move to share Covid test and trace data with police. Government decision will deter people in England from engaging, warn public health and privacy analysts. Cabinet Office minister Michael Gove said police officers were operating in a ‘very proportionate way’. Privacy experts and public health figures have reacted with alarm to the “potentially disastrous” UK government move to share with the police the contact details of those who have been instructed to self-isolate by NHS Test and Trace. Over the weekend it emerged that the police had been given powers to request data of individuals who have been told to self-isolate in England in an agreement between the Department of Health and Social Care and the National Police Chiefs’ Council. The DHSC said it was a legal requirement for people who have tested positive for Covid-19 and their close contacts to self-isolate when formally notified to do so. “The Department of Health and Social Care has agreed a memorandum of understanding with the National Police Chiefs Council to enable police forces to have access on a case-by-case basis to information that enables them to know if a specific individual has been notified to self-isolate.***

***End of abstract***

***This raises serious concerns that require further investigation. I would therefore be pleased to receive the following information under the Freedom of Information Act 2000. A copy of the Data Protection Impact Assessment [D P IA] undertaken by UK Government, pursuant to S.64 Data Protection Act 2018. A copy of the Memorandum of Understanding between the Department of Health and Social Care and National Police Chief's Council. If you consider it necessary, any personal data can be redacted to comply with the data management principles set out in the G D P R and Data Protection Act 2018. Confirmation whether human DNA [unique to individuals], now harvested on an industrial scale under the NHS Test and Trace programme, is also being shared with the police for use in forensic analysis of crime scene.”***

Your request has been handled under the Freedom of Information Act (FOIA).

For ease of reference, I have separated the individual elements of your request.

**A copy of the Data Protection Impact Assessment [D P IA] undertaken by UK Government, pursuant to S.64 Data Protection Act 2018.**

DHSC holds the information you requested. However, we are withholding this information under section 35(1)(a) of the FOI Act.

This provides protection for information that relates to the formulation or development of Government policy. Section 35 is a qualified exemption and requires consideration of the public interest test. The Department recognises a general public interest in promoting openness in the way in which public authorities make decisions on policies. However, the purpose of the exemption at section 35 is to protect the internal deliberative process as it relates to policy making. In other words, the exemption is intended to ensure that the possibility of public exposure does not deter from full, candid and proper deliberation of policy formulation and development, including the exploration of all options, the keeping of detailed records and the taking of difficult decisions. Premature disclosure of information protected under section 35 could prejudice good working relationships, the perception of civil servants' neutrality and, ultimately, the quality of Government.

**A copy of the Memorandum of Understanding between the Department of Health and Social Care and National Police Chief's Council. If you consider it necessary, any personal data can be redacted to comply with the data management principles set out in the G D P R and Data Protection Act 2018.**

DHSC holds the information you have requested. However, we are withholding this information under section 22 of the FOIA, which permits for the non-disclosure of information on the grounds that the information is due to be published in the future.

Section 22 is a qualified exemption and, as such, we are required to assess the public interest in withholding this information against that of its release. We recognise there is a general public interest in information being made as freely available as possible. However, there is also a very strong public interest in ensuring that this information is made available to everyone at the same time, thereby ensuring equity of access, and we have therefore, concluded that the public interest in withholding the information outweighs that in its release.

**Confirmation whether human DNA [unique to individuals], now harvested on an industrial scale under the NHS Test and Trace programme, is also being shared with the police for use in forensic analysis of crime scene.**

DHSC holds information relevant to your request. When an individual is swabbed or provides a saliva specimen, that specimen will contain human DNA. The DNA is co-extracted with any viral RNA present in the test sample. No laboratory, agency or company contracted by DHSC has the right to process or analyse such human DNA. If such processing took place, this would contravene the provisions of The Human Tissue Act 2004 and the individuals and companies or agencies would be liable to criminal prosecution.

DHSC only has permission to process these materials for the purpose of respiratory virus diagnosis. Samples are generally passed to the Public Health England/COVID-19 Genomics (PHE/COG) team at the Sanger Institute for viral genome sequencing as part of surveillance, or as part of PHE flu surveillance. No other processing can take place within the consent for testing obtained from the individual from whom the sample was collected.

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be submitted within two months of the date of this letter and sent to [FreedomOfInformation@dhsc.gov.uk](mailto:FreedomOfInformation@dhsc.gov.uk), or to the address at the top of this letter.

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

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner's Office (ICO). Generally, the ICO cannot make a decision unless you have already appealed our original response and received our internal review decision. You should raise your concerns with the ICO within three months of your last meaningful contact with us.

The ICO can be contacted at:

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

<https://ico.org.uk/concerns/>

Yours sincerely,

Hazel Percy  
Freedom of Information Officer  
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