

**Governance & Legal
Services**

Information Management
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Professor James Coyne

By email only to: jcoynester@gmail.com

11 December 2015

Dear Professor Coyne,

Request for information under the Freedom of Information Act 2000 ("the Act")

Further to your recent request for information held by King's College London, I am writing to confirm that the requested information is held by the university. The university is withholding the information in accordance with section 14(1) of the Act – Vexatious Request.

Your request

You initially requested the information in accordance with the data sharing policies of the Public Library of Science (PLOS). The university has decided to treat this as a request under section 1(1) of the Act, as the information is held by the university. We received your information request on 13 November 2015.

You requested the following information.

"I have read with interest your 2012 article in PLOS One, "Adaptive Pacing, Cognitive Behaviour Therapy, Graded Exercise, and Specialist Medical Care for Chronic Fatigue Syndrome..."

I am interested in reproducing your empirical results, as well as conducting some additional exploratory sensitivity analyses.

Accordingly, and consistent with PLOS journals' data sharing policies, I ask you to kindly provide me with a copy of the dataset in order to allow me to verify the substantive claims of your article through reanalysis. I can read files in SPSS, XLS[x], or any reasonable ASCII format."

Our response

We have given careful consideration to your request and have determined that section 14(1) of the Act applies to your request.

The university has considered, in particular, the following guidance and decisions in coming to this conclusion:

- *Information Commissioner v Devon County Council and Dransfield* [2012] UKUT 440 (AAC) (*Dransfield*)
- *John Mitchell v Information Commissioner* EA/2013/0019 (*Mitchell*)
- Decision of the Information Commissioner: FS50558352 – 18 March 2015
- Guidance issued by the Information Commissioner's Office

Background

The article referred to in the request is a cost-effectiveness analysis based on a medical paper titled "*Comparison of adaptive pacing therapy, cognitive behaviour therapy, graded exercise therapy, and specialist medical care for chronic fatigue syndrome (PACE): a randomised trial*". This is more commonly known as the PACE trial. This is a collaborative project between researchers from Queen Mary University of London, Oxford University and King's College London. This was a large scale randomised clinical trial testing treatments for chronic fatigue syndrome (CFS) also known as myalgic encephalomyelitis (ME).

The university considers itself to be a joint holder of the requested information with Queen Mary University of London.

It is acknowledged that the project has led to controversy. There have been significant efforts to publically discredit the trial following the release of the first article in the Lancet journal in 2011. Among other public campaigns, there is a Wikipedia page dedicated to criticisms of this project. The campaign has included deeply personal criticism to the researchers involved as well as significant comment around the decisions not to disclose data and information about the project.

This request

The university considers that there is a lack of value or serious purpose to your request. The university also considers that there is improper motive behind the request. The university considers that this request has caused and could further cause harassment and distress to staff.

The university considers that the motive and purpose behind this request is polemical. The university notes the view of the Information Commissioner in decision FS50558352 that the request in that case was '*more focussed on attacking and attempting to discredit the trial than in obtaining useful information on the topic.*' The requested information relates to economic analysis undertaken by academic staff with considerable experience in this field. External sources were used as part of

that analysis and the process took approximately one year to complete. We would expect any replication of data to be carried out by a trained Health Economist.

The university acknowledges the general principle that requests should be considered both applicant and motive 'blind'. "*However, the proper application of section 14 cannot side-step the question of the underlying rationale or justification for the request.*" (Dransfield pg para. 34). The university considers that it is entitled to take into account the wider dealings and publicity surrounding the project when considering the motive behind this request.

The active campaign to discredit the project has caused distress to the university's researchers who hold legitimate concerns that they will be subject to public criticism and reputational damage. The researchers based at the university were aware of the criticism of the trial and of the comments that have been made publically. They were also aware of the numerous requests for information received by Queen Mary University of London. The researchers involved in this project are experienced and well-used to scrutiny of their work. However, since the receipt of the request, they have reported concern that they will targeted with the same criticisms as their colleagues at Queen Mary University of London.

The university adopts the comments made in the *Mitchell* case at paragraphs 31-34 in relation to the need to protect academic freedom and protect academic staff who put forward 'new ideas and controversial or unpopular opinions.'

In conclusion, the university considers that when applying a holistic approach, this request can properly be considered to be vexatious.

This completes the university's response to your information request.

Your right to complain

If you are unhappy with the service you have received in relation to your information request or feel that it has not been properly handled you have the right to complain or request a review of our decision by contacting the Head of Information Management and Compliance within 60 days of the date of this letter.

Further information about our internal complaints procedure is available at the link below:

http://www.kcl.ac.uk/college/policyzone/assets/files/governance_and_legal/Freedom_of_Information_Policy_updated_Oct_%202011.pdf

In the event that you are not content with the outcome of your complaint you may apply to the Information Commissioner for a decision. Generally the Information Commissioner cannot make a decision unless you have exhausted the internal complaints procedure provided by King's College London.

The Information Commissioner can be contacted at the following address:

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

Yours sincerely

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Ben Daley
Information Compliance Manager