

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 23 November 2016

**Public Authority:** Department for Environment Food and Rural Affairs

**Address:** Area 4A  
17 Smith Square  
London  
SW1P 3JR

#### Decision (including any steps ordered)

---

1. The complainant has requested information from the Department for Environment Food and Rural Affairs ("Defra") relating to staff expenses.
2. The Commissioner's decision is that Defra has correctly applied section 14 of the FOIA to refuse to comply with the request.
3. The Commissioner requires Defra to take no steps.

#### Request and response

---

4. On 12 February 2016, the complainant wrote to Defra and requested information in the following terms:

*"The time frame for my request is 000:01 1 January 2013 to 23:59 31 December 2015*

*In line with section 1(1) of the Act please either confirm or deny whether your department holds a database or databases of staff expense claims.*

*By 'staff expense claims' I mean any claim made by staff for any expenditure whatsoever.*

*If a confirmation, please disclose:*

- *the number of databases held*
- *the purpose of each database*

- *a copy of each database*

*For each individual claim on each database, please provide the following fields of information (where available)*

- *the amount of money claimed for*
- *the date of the claim*
- *the name of the vendor*
- *the description of and/or reason for the claim*
- *the name and job title of each claimant*
- *any other non-exempt field of information."*

5. Defra contacted the complainant on 11 March 2016. It asked the complainant to confirm whether he was seeking the whole database or only the fields he specified in his request. The complainant responded later the same day and confirmed:

*"all information in the database. As per my request, only disclose the fields of information I identify "where available" in dataset format".*

6. Defra responded to the request on 4 April 2016. It applied section 14 of the FOIA to the request. It explained that complying with the request would impose an oppressive burden on the organisation and its staff.
7. Following an internal review, Defra wrote to the complainant on 16 May 2016. It upheld its previous decision.

## **Scope of the case**

---

8. The complainant contacted the Commissioner on 25 May 2016 to complain about the way his request for information had been handled. Specifically he disputed Defra's application of section 14.
9. The Commissioner has had to consider whether Defra was correct to apply section 14 to refuse to comply with the request.

## **Reasons for decision**

---

10. Section 14(1) states that section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious. There is no public interest test.

11. The term "vexatious" is not defined in the FOIA. The Upper Tribunal (Information Rights) considered in some detail the issue of vexatious requests in the case of the *Information Commissioner v Devon CC & Dransfield*<sup>1</sup>. The Tribunal commented that vexatious could be defined as the "*manifestly unjustified, inappropriate or improper use of a formal procedure*". The Tribunal's definition clearly establishes that the concepts of proportionality and justification are relevant to any consideration of whether a request is vexatious.
12. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public authority and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request and (4) harassment or distress of and to staff.
13. The Upper Tribunal did however also caution that these considerations were not meant to be exhaustive. Rather, it stressed the:

*"importance of adopting a holistic and broad approach to the determination of whether a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests"* (paragraph 45).
14. In the Commissioner's view the key question for public authorities to consider when determining if a request is vexatious is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
15. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests.<sup>2</sup> The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.

---

<sup>1</sup> GIA/3037/2011

<sup>2</sup>

[http://ico.org.uk/for\\_organisations/guidance\\_index/~/\\_media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/dealing-with-vexatious-requests.ashx](http://ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx)

16. In this case, Defra explained that to comply with the request would impose an oppressive burden on Defra and its staff. Defra explained that it may be possible to gather the requested information within the cost limit set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2000<sup>3</sup>. However, it argued that a large amount of data would need to be withheld under section 40(2) of the FOIA. The process of redacting information is not an activity which a public authority can charge for under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations. Defra has therefore sought to rely upon section 14 on the grounds that the process of redacting any withheld information from the database would impose an oppressive burden on Defra.
17. Defra explained that there are in excess of 50,000 expense claims made by Defra staff during the period 1 January 2013 – 31 December 2015. Defra further explained that within this data, there will be a vast amount of personal data scattered through it that cannot easily be isolated. Defra staff would therefore need to go through each individual expense claim and redact the personal data.
18. To support its position that the request fell under the exemption provided by section 14(1), the Commissioner asked Defra to address a number of questions. The Commissioner first asked Defra to detail the types of information that would need to be redacted from the database.
19. Defra responded and explained that the information within the scope of this request contained data in 53,234 lines extracted from its finance system into an excel spreadsheet. Defra explained that the type of information that would be held within the spreadsheet which would need to be redacted consisted of the following:
  - Names of staff
  - Employee (staff) numbers
  - Postcodes
  - Patterns of travel
  - Team name/area
  - Reasons for the expense claim (where it contains personal information)
20. Defra stressed that this was not an exhaustive list. There may be further data that would need to be redacted.
21. Defra explained:  

---

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2004/3244/contents/made>

*"Defra works on a number of high-profile and sensitive areas, such as (but not limited to) badger culling, wildlife licencing and hunting,. With emotive work areas such as these, it is paramount that Defra ensures the health and safety of its staff. Disclosing any information that may identify which areas individuals work on could potentially place these individuals at risk of harm. We would need to redact information where staff identify their team name, especially where they work in a sensitive area of Defra business and it provides a health a safety risk".*

22. To support its position that compliance with the request would be an oppressive burden, Defra explained that the data contains postcodes of Defra staff. It further explained that some postcodes only have one property within the catchment area and even where there was more than one property within the catchment area, this may allow an individual to know approximately where an employee lived. Defra therefore felt that it would be necessary to remove all postcodes from the data.
23. Defra also explained that it was aware that some staff make regular work trips and claim expenses. It therefore believed that certain travel patterns may be determined by examining the information contained within the spreadsheet. Defra argued that the release of this information could potentially place the health and safety of Defra staff at risk and therefore it would need to redact all instances of such travel patterns.
24. In addition to this, Defra stated that within the spreadsheet, there is a 'justification' field for the expense claim made by the member of staff. Defra explained that this field can contain personal information such as who Defra staff are meeting with and therefore it would need to be redacted. Defra argued that it would need to go through each justification to determine whether it needed to be redacted.
25. To conclude its answer to the question, Defra explained that the information detailed in paragraph 20-25 was an outline of the types of data that was contained within the spreadsheet. It sought to emphasise that upon a closer inspection, it may find further information that it would need to redact which is not captured by the points provided at paragraph 22.
26. The second question the Commissioner asked Defra to address concerned how the requested information was stored and why this would make it difficult to isolate the exemption information.
27. Defra explained that the requested information is held in its finance system. Defra further explained that the exempt information is not easily isolated due to the nature of the way the information is captured during the claims process.

28. Defra stated:

*"When staff claim expenses, they have to populate a free-text box which captures, explains and justifies what the expense is for. At this stage of the claim process, staff sometimes put personal data within the free-text box to justify their claim and this is not necessarily in a consistent manner. Staff often focus on providing information to the expense approver and do not necessarily consider that the information may be made public. Thus in order to ensure we have redacted all personal data, we would need to go through each individual claim manually to ensure this personal data is redacted, Unfortunately we are not simply able to remove the specific data automatically as the information is entered in an inconsistent manner".*

29. Defra explained that although it was not under an obligation to provide advice and assistance as it considered the request to be vexatious, it did provide the complainant with some guidance on how he could narrow down his request in order for Defra to comply with it. Defra suggested for the complainant to remove the fields relating to 'description of and or reason for the claim, the names and job titles of each claimant and any other non-exempt field of information from his request. However, the complainant did not narrow down his request.

30. To strengthen its position regarding its application of section 14, Defra explained that the complainant had made the same request to all other Government departments. Defra stated that this was a 'round robin' request.

31. Defra acknowledged the complainant's reasons for submitting the request. The complainant had explained that the purpose of the request was *"discovering the nature of expense claims submitted by staff and thereby assessing how public funds are spent and on what"*.

32. Defra explained:

*"Whilst we understand the importance for Government Departments to be open and transparent regarding the use of public money, Defra already provides expenses information deemed to be sufficient by Government. For example, in our response to [redacted name] on 4 April 2016, we provided a link to the GOV.UK website where Defra publishes senior officials' quarterly transparency information. In our internal review response of 16 May 2016, we also provided a link to the GOV.UK website where Defra publishes information on Government Procurement Card spend over £500.*

*Whilst we accept there is an interest in knowing how public money is spent, [redacted name] has not provided a Defra-specific reason as to*

*why he is requesting this information. Therefore, we believe this to be a 'fishing expedition' as defined in paragraphs 80 and 81 of the ICO guidance on the use of section 14, which states that such a request "casts their net widely in the hope that this will catch information that is noteworthy or otherwise useful to them."*

*The complainant's position*

33. The complainant explained that the intention behind his request was to expose how public funds are spent and what on. He argued that his request has a serious purpose and value and the public interest in disclosure outweighs any burden on the public authority in having to redact any exempt information.

*The Commissioner's position*

34. The Commissioner accepts that a significant burden would be placed upon Defra if it had to trawl through 53,234 claims and redact any information that was exempt from disclosure under the FOIA.
35. The Commissioner notes that not every claim would contain detailed personal data that would need to be redacted. However the Commissioner accepts that the majority of expense claims may contain detailed information which may lead to the identification of individuals and this information would need to be redacted.
36. The Commissioner acknowledges and appreciates that there will always be a strong public interest in information held by public authorities regarding expense claims and how public money is spent. She further acknowledges and appreciates the purpose and value of the request and she does not doubt the intentions of the complainant for seeking the information he has requested. However, the Commissioner considers that the public interest in information relating to Defra staff expense claims has been satisfied by the information that is available via the links provided to the complaint in its initial response to the request. The Commissioner considers that compliance with the request would create an unjustified burden upon Defra and its staff.
37. The Commissioner has therefore decided that Defra was correct to apply section 14 to the request.

## Right of appeal

---

38. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

39. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
40. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed .....

**Chris Hogan**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**