

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 May 2019

Public Authority: The Royal Mint
Address: Llantrisant
Pontyclun
CF72 8YT

Decision (including any steps ordered)

1. The complainant submitted a request to the Royal Mint for the cost of producing 1p and 2p coins in each of the last five financial years. The Royal Mint sought to withhold this information on the basis of section 43(2) (commercial interests) of FOIA. The Commissioner has concluded that the requested information is exempt from disclosure on the basis of this exemption and that in all the circumstances of the case the public interest favours maintaining the exemption.

Request and response

2. The complainant submitted the following request to the Royal Mint on 24 August 2018:

'Please provide the following information for each of the previous five financial years (a) 2013/14; (b) 2014/15; (c) 2015/16; (d) 2016/17; (e) 2017/18:

(i) the number of 1p coins produced
(ii) the number of 2p coins produced
(iii) the cost of producing the 1p coins
(iv) the cost of producing the 2p coins'

3. The Royal Mint responded on 24 September 2018 and explained that the number of coins produced until the end of 2017 could be found online and this information was therefore exempt from disclosure on the basis of section 21 (information reasonably accessible by other means) of FOIA. The Royal Mint explained that the cost of producing 1p and 2p coins was considered to be exempt from disclosure on the basis of section 43(2) (commercial interests) of FOIA.
4. The complainant contacted the Royal Mint on the same day in order to ask for an internal review. He outlined why he considered there to be a compelling public interest in the disclosure of this information.
5. The Royal Mint informed him of the outcome of the internal review on 22 October 2018. The review upheld the decision to withhold the cost of producing the coins on the basis of section 43(2) of FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 23 November 2018 in order to complain about the Royal Mint's decision to withhold the cost of producing the 1p and 2p coins on the basis of section 43(2) of FOIA. He argued that the public interest favoured disclosure of this information.

Reasons for decision

Section 43 – commercial interests

7. Section 43(2) states that:

'Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).'

8. In order for a prejudice based exemption, such as section 43(2), to be engaged the Commissioner considers that three criteria must be met:
 - Firstly, the actual harm which the public authority alleges would, or would be likely, to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption;
 - Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant

prejudice which is alleged must be real, actual or of substance;
and

- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie, disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice. In relation to the lower threshold the Commissioner considers that the chance of prejudice occurring must be more than a hypothetical possibility; rather there must be a real and significant risk. With regard to the higher threshold, in the Commissioner's view this places a stronger evidential burden on the public authority to discharge.

The Royal Mint's position

9. The Royal Mint argued that disclosure of the withheld information *would* prejudice rather than simply being likely to, both its and HM Treasury's commercial interests for the following reasons:
10. Firstly, with regard to its interest own commercial interests the Royal Mint argued that the withheld information would be of significant commercial advantage to both its competitors and/or its customers. The Royal Mint argued that the withheld information would lead to inferences of its pricing structures and would undoubtedly give these third parties an inequitable edge in bidding for future work from HM Treasury, and indeed any other third party with whom Royal Mint has contracts. The Royal Mint explained that such commercial advantages would apply both in the UK and abroad.
11. In support of this position, the Royal Mint explained that:
 - It is the world's leading export mint and makes coins and blanks for over 40 countries each year, including state customers.
 - Its core business is to meet the demand for UK coins. However, as the demand for new coin declines in the UK, it is increasingly seeking opportunities to grow its share of the overseas market.
 - Most, if not all, Mints have the capability of producing copper-plated coins of the same composition as used in 1p and 2p coins, and would therefore be interested in The Royal Mint's manufacturing costs for striking.
 - Most countries who seek coins or blanks for the national currencies issue international tenders for their supply.
 - Cost and/pricing is almost always the most important and decisive factor for central banks and issuing authorities with regard to ordering circulating coins and blanks.

- Finally, the Royal Mint explained that as far as it was aware, no other Mint publishes its manufacturing costs – this is as expected given that it would make no commercial sense to do so.
12. Taking the above into account, the Royal Mint argued that the number of suppliers and/or customers who would gain a commercial advantage and who may undercut or unfairly challenge its pricelist could therefore be immeasurable. By way of example, the Royal Mint explained that competitors would be able to calculate or discover its manufacturing prices which would translate into its inability to openly compete on the international market for business.
 13. Furthermore, the Royal Mint argued that there is a considerable risk that disclosing the withheld information in respect of UK coins could cause a domino effect – essentially leading to a potential revelation of details of many, or all, other coin contracts to which it is a party across the world. In other words, the Royal Mint explained that it was concerned that disclosing the withheld information would open the floodgates on other projects and products (beyond just the production costs of 1p and 2p coins). For example, the Royal Mint argued that if this information **is** disclosed, there would be a valid (and highly detrimental) argument that the production costs of higher denomination coins, as well as those of international coins, should be disclosed to the public.
 14. Secondly, the Royal Mint argued that it is a wholly government-owned organisation, any commercial damage to it would, in turn, be mirrored for its sole beneficial owner, HM Treasury.
 15. Thirdly, the Royal Mint argued that it was also concerned about the real possibility of tender deterrence if the withheld information was disclosed. The Royal Mint explained that it envisaged two potential reasons why competitors may be deterred from bidding for any future contract (relating to coin production or otherwise) tendered by HM Treasury:
 - i) Disclosing the withheld information would set a precedent for any future contract issued by HM Treasury – to that end, competitors are likely to be concerned that their prices and other commercially sensitive information would be subject to public disclosure, if they were successful following a tender process. The Royal Mint emphasised that secretive material such as that of pricing is core to any business model, its effective operation and its ultimate success.
 - ii) in the alternative, if it transpires that the Royal Mint's manufacture costs within the withheld information are at a particularly competitive rate, and/or are cheaper than those of its competitors, other manufacturers may consider it futile to even issue a tender

bid – on the assumption that they would be unsuccessful for costs reasons.

The Commissioner's position

16. With regard to the first criterion of the three limb test described above, the Commissioner accepts that the potential prejudice described by the Royal Mint clearly relates to the interests which the exemption contained at section 43(2) is designed to protect.
17. With regard to the second criterion the Commissioner is satisfied that disclosure of the withheld information has the potential to undermine the Royal Mint's position and thus its commercial interests. The Commissioner has reached this conclusion given the potential insight such information would provide to both the Royal Mint's customers and its competitors about its pricing. With regard to the third criterion, the Commissioner has no hesitation concluding that disclosure of the withheld information *would* prejudice the commercial interests of the Royal Mint. She has reached this conclusion in light of a number of features of the market in which it operates; namely the quantity of potential customers and potential competitors who would gain some sort of advantage from the information and centrality of cost and pricing very often being the decisive factor for central banks and issuing authorities. Given that the Royal Mint is solely owned by HM Treasury, the Commissioner accepts that such an outcome would also harm its commercial interests.
18. Furthermore, in respect of the tender deterrence argument, in light of the Royal Mint's submission she also considers it plausible that tenderers may be deterred from submitting bids to HM Treasury in respect of future coin tenders and that such an outcome would also undermine HM Treasury's commercial interests, and in turn, its ability to achieve value for money.
19. Section 43(2) is therefore engaged.

Public interest test

20. Section 43 is a qualified exemption and therefore the Commissioner must consider the public interest test and whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Public interest arguments in favour of disclosing the information

21. The complainant suggested that in 2018 HM Treasury had raised the issue of eliminating 1p and 2p coins and that this was widely reported at the time.¹ He noted that such reporting arose from HM Treasury's consultation document.² The complainant noted that this issue has also been raised by the Bank of England previously.³
22. The complainant argued that it was impossible to have a properly informed public debate on this issue (which is of continuing importance) and a full assessment of the pros and cons of these coins being in circulation without knowing the cost of producing them. He acknowledged that this is not of course the only factor affecting this question, but it is one very relevant one. He therefore argued that the interests of transparency, accountability, public understanding and public participation require that the information requested is made public.

Public interest arguments in favour of maintaining the exemption

23. In its internal review, and in direct response to the complainant's suggestion that HM Treasury raised the issue of eliminating 1p and 2p coins, the Royal Mint stated that:

'I am not sure this was the case at all. To be accurate and what I believe you are referring to, is the consultation/call for evidence released by HM Treasury inviting comments on the mix of coins in circulation as consumers move to non-cash payments such as contactless and digital spending. Whilst there is reference to lower denominations falling out of the cash cycle there is no specific mention of eliminating the 1p and 2p coins and certainly not on the grounds of cost. I am therefore not persuaded that your comments have any substantive impact on the public interest assessment as carried out in

¹ The complainant cited the following examples: <https://www.bbc.co.uk/news/business-43388662> , <https://www.theguardian.com/business/2018/mar/14/no-plans-scrap-1p-2p-coins-downing-street-says> , <https://www.thetimes.co.uk/article/penny-could-be-dropped-as-cash-is-replaced-by-contactless-payments-x7fbtlktl>

²

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/689234/Cash_and_digital_payments_in_the_new_economy.pdf - The complainant cited paragraphs 2.12-3.17 and Box 3.C of the consultation document.

³ <https://www.thetimes.co.uk/article/abolish-the-1p-coin-says-bank-chief-n9nsf5dvw> and <https://www.thetimes.co.uk/article/ditching-1p-and-2p-coins-won-t-push-up-prices-say-economists-9bdn2smx8>

respect of your original freedom of information request and the application of the section 43 exemption was therefore entirely appropriate.'

24. In its submissions to the Commissioner the Royal Mint acknowledged that disclosing the withheld information would add to the openness and transparency. However, it was satisfied that the overall public interest was already satisfied given the information already available. It cited HM Treasury's annual report and accounts 2017/8 which include information relating to aggregated coinage expenditure, without triggering the detrimental effect of disclosing individual prices. The Royal Mint also noted that the consultation referred to above by the complainant had invited comments on the mix of coins in circulation. The Royal Mint explained that HM Treasury is continuing to analyse the responses, but in the meantime it had affirmed that it was incorrect to assert that it was considering eliminating 1p and 2p coins on the grounds of cost, or at all.⁴
25. The Royal Mint also argued that in its view the substance of this case, being fundamentally the production of 1p and 2p coins, is in no way pressing or vital information in need of disclosure, particularly when balanced against the probable and adverse commercial impact both to it and HM Treasury if the information was disclosed.

Balance of the public interest test

26. In considering the balance of the public interest in relation to this case the Commissioner has considered the consultation document cited by both parties. In her view, the consultation does not specifically state that HM Treasury was considering the elimination of the 1p and 2p coins. She also notes the clarification provided by HM Treasury, and as cited by the Royal Mint, about there being no plans to scrap these coins.
27. Nevertheless, the Commissioner acknowledges that the consultation did specifically ask for responses to the following question '*Does the current denominational mix (eight coins and four banknotes) meet your current and future needs? If not, how should it change?*' Moreover, she notes that the consultation document was certainly interpreted, whether correctly or not, to suggest that in the future it was possible that consideration could be given to scrapping these coins as evidenced by the media coverage cited by the complainant (see footnote 1).

⁴ <https://www.bbc.co.uk/news/business-43388662> and <https://news.sky.com/story/government-signals-1p-and-2p-coins-safe-amid-backlash-at-consultation-11288402>

Furthermore, the Commissioner notes that perhaps such an interpretation was unsurprising given that the possibility of eliminating the 1p coin had been previously raised by the governor of the Bank of England (see footnote 3).

28. Taking the above into account, the Commissioner accepts in order to consider the future currency mix of the UK, some parties may also consider it useful or informative to understand the cost of producing the 1p and 2p coins. The Commissioner therefore accepts the rationale of the complainant's point that in order to have a *fully* informed debate about the currency mix it is necessary to understand the costs of producing certain parts of the currency.
29. However, such an interest obviously has to be balanced against the public interest in maintaining the exemption. In the Commissioner's opinion there is a significant and weighty public interest in ensuring that the Royal Mint's commercial interests are not undermined given that it is a government owned company and thus any such outcome will also impact on HM Treasury's commercial interests and ultimately the tax payer. The Commissioner also considers it to be very clearly against the public interest to undermine HM Treasury's ability to achieve value for money in future tendering processes for coinage. In the particular circumstances of this case given that disclosure meets the higher threshold of 'would' prejudice, the Commissioner considers that this adds additional weight to the public interest in maintaining the exemption.
30. In conclusion, whilst the Commissioner accepts that disclosure of the withheld information could further inform the public debate in question, she is satisfied that such a benefit is clearly outweighed by the public interest in withholding the information given the broad ranging and far reaching negative consequences of doing so both for the Royal Mint and HM Treasury.

Right of appeal

31. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

32. 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.
33. 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF