

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 October 2020

**Public Authority:** The Cabinet Office  
**Address:** 70 Whitehall  
London  
SW1A 2AS

#### Decision (including any steps ordered)

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1. The complainant submitted two requests to the Cabinet Office seeking organograms for its staff. The first request sought organograms for staff at September 2018 and the second request sought organograms for staff at March 2019. The Cabinet Office provided the information for senior staff at September 2018. However, it refused to provide the data for junior staff at September 2018, and the data for both junior and senior staff at March 2019 as it considered this to be exempt from disclosure on the basis of section 22(1) (information intended for future publication) of FOIA. The Commissioner is satisfied that Cabinet Office is entitled to rely on section 22(1) of FOIA to refuse to disclose this information and that in the circumstances of each request the public interest favours maintaining the exemption.
2. No steps are required.

#### Background

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3. In May 2010, the then Prime Minister David Cameron wrote to government departments regarding the issue of opening up government

data. Among the data expected to be published by Government departments was '*organograms for central government departments and agencies that include all staff positions to be published in a common format from October 2010*'.<sup>1</sup> This was reiterated by the then Prime Minister Theresa May in a letter to Government departments in December 2017.

4. Government departments are committed to publishing organogram data on gov.uk every six months. Departments are expected to take a 'snapshot' of roles on 31 March and 30 September and to publish them on data.gov.uk by 6 June and 6 December respectively. Organograms are published in a collection of visualisations or as raw data in CSV format.
5. The Cabinet Office publishes organogram data on data.gov.uk. It publishes CSV data of senior and junior staff. The Cabinet Office most recently published senior CSV data on 7 December 2018 (for the 30 September 2018 'snapshot') and most recently published junior CSV data on 16 January 2017 (for the March 2016 'snapshot').<sup>2</sup>

## Request and response

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### The first request

6. The complainant submitted the following request to the Cabinet Office on 7 October 2019:

*'I am contacting you after trying to retrieve the latest Cabinet Office organogram (junior and senior) published in December 2018 on data.gov.uk. However, the CSV files available online appear to be empty apart from the column headings: could we obtain the files with the data for juniors and seniors, please?'*

7. The Cabinet Office responded on 4 November 2019 and explained that the data for the senior roles was published in December 2018 and was available online. However, it explained that the data for the junior roles was not ready for publication and this information was therefore

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<sup>1</sup> <https://www.gov.uk/government/news/letter-to-government-departments-on-opening-up-data>

<sup>2</sup> <https://data.gov.uk/dataset/ff76be1f-4f37-4bef-beb7-32b259413be1/organogram-of-staff-roles-salaries>

considered to be exempt from disclosure on the basis of section 22(1) (information intended for future publication) of FOIA.

8. The complainant contacted the Cabinet Office on 18 November 2019 and asked it to conduct an internal review of this decision.
9. The Cabinet Office informed him of the outcome of the internal review on 5 December 2019. This upheld the application of section 22(1) of FOIA.

### The second request

10. The complainant also submitted the following request to the Cabinet Office on 19 November 2019:

*'I would like to make the following individual requests for information under the Freedom of Information Act:*

- *The Cabinet Office Organogram of Staff Roles & Salaries for Junior staff from March 2019*
- *The Cabinet Office Organogram of Staff Roles & Salaries for Senior staff from March 2019*

*Organograms are part of the suite of transparency data departments are expected to publish, as originally outlined by David Cameron in a letter in May 2010, and reiterated by Theresa May in a letter in December 2017. The latest guidance issued to all government departments by Cabinet Office mentions that the March 2019 organograms should have been published by 6 June 2019.*

*If you were able to give an early indication of whether this was likely to fall below the cost limit, that would be extremely helpful.'*

11. The Cabinet Office responded on 2 December 2019 and explained that it considered the request substantially similar to the one submitted to it on 7 October 2019 and therefore it was refusing the request on the basis of section 14(1) of FOIA because it considered it to be a repeated request.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 13 December 2019 in order to complain about the Cabinet Office's handling of his requests. He explained that he wanted the Cabinet Office to provide him with the junior organogram which was due to be published in December 2018, ie the September 2018 organogram. This is the information withheld in response to his first request. He also wanted the Cabinet Office to

provide him with the junior and senior organograms for March 2019. This is the information falling within the scope of his second request.

13. During the course of the Commissioner's investigation the Cabinet Office explained that it was no longer seeking to rely on section 14(1) to refuse the second request. Rather, it considered section 22(1) to apply to all of the information falling within the scope of that request, as well as the junior organogram sort by the first request.
14. The Commissioner has therefore considered whether at the time of the requests the Cabinet Office was entitled to rely on section 22(1) of FOIA to withhold the requested organograms.

## **Reasons for decision**

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### **Section 22 – information intended for future publication**

15. Section 22(1) of FOIA says that information is exempt if it at the time a public authority receives a request for it:
  - the public authority holds the information;
  - the public authority intends to publish the information at some future date, whether determined or not; and
  - in all the circumstances it is reasonable to withhold the information prior to publication.
16. Therefore, in order for section 22(1) to be engaged, a public authority has to demonstrate that each of the three criteria set out above are met.

*Did the Cabinet Office hold the information at the time of the requests?*

17. The Cabinet Office explained that at the time of the first request it held the information needed to compile the junior organogram for September 2018 but it needed to gather, collate, cleanse and format the data before it could be published. Similarly, the Cabinet Office explained that this was also the position in relation to the junior and senior organograms for March 2019.
18. The Commissioner is therefore satisfied that at the time of the request the Cabinet Office held the requested information.

*Did the Cabinet Office intend to publish the information at some date in the future, whether determined or not?*

19. The Cabinet Office noted that the Commissioner's guidance on section 22(1) of FOIA does not require a set publication date to be in place at the time the exemption is relied upon to withhold information. The Cabinet Office explained that in the case of the September 2018 junior staff data there was no set publication date in place at the time the first request was made. Equally, there was no set date in place to publish the March 2019 senior and junior organograms at the point that the second request was submitted.
20. However, the Cabinet Office explained that publication of all of this information was intended to take place after other actions had been completed. The Cabinet Office emphasised that the Commissioner's guidance noted that this was considered to be a relevant factor in assessing the application of section 22 of FOIA.
21. The Cabinet Office explained that the situation was as follows: It had previously used gov.uk's upload tool to enable the gathering, collation, cleansing and formatting of the data together with its transformation into an organogram for purposes of uploading the data on gov.uk in line with transparency requirements. However, the Cabinet Office explained that the upload tool became inaccessible and work on producing the dataset for September 2018 junior staff data therefore continued without its aid. The Cabinet Office also explained that its HR system did not support the requirements of supporting a detailed organogram. The Cabinet Office emphasised that this impeded the completion of the work. At the time of the first request, it was projected that the work would be completed at the conclusion of the 2019/2020 financial year (ie by March 2020).
22. However, the Cabinet Office explained that this timeframe had slipped due to the pressure it was under due to other work streams and as a result of its central role in the UK government's response to the Covid-19 pandemic which had necessitated the redeployment of resources which has further impeded the completion of this work.
23. The Cabinet Office explained that it has recently introduced new software (OrgVue) which will enable it to produce data for organograms much more simply. It also explained that it has continued to seek to resolve the problem with the upload tool and staff have only recently regained access to it. The Cabinet Office explained that the procurement and implementation of OrgVue and the reestablishment of the upload tools' functionality are both actions, the completion of which, will allow the public publication of the September 2018 junior staff data and the publication of both junior and senior March 2019 staff data.

24. The Cabinet Office emphasised that the significant work needed to be undertaken, and including the completion of the actions outlined above, did not invalidate the genuine intention it had at the point the requests were submitted to publish the datasets in the future.
25. The Commissioner agrees with this assessment and based on the Cabinet Office's submissions she is satisfied that it did, at the time of both requests, have a settled intention to publish the withheld information. The Cabinet Office's ability to publish it was clearly dependent on other actions taking place, but as the Commissioner's own guidance explains this does not invalidate the intention by a public authority to publish the information at some point in the future.
26. In reaching this conclusion, the Commissioner notes that the Cabinet Office's submissions made reference to the impact external factors, ie the impact of Covid-19 in early 2020, had on its ability to complete these actions. It is important to emphasise that the Commissioner's role is limited to considering the application of any exemptions at the time of the request, in this case October and November 2019. Whilst the Commissioner does not dispute the Cabinet Office's view that dealing with the impact of the pandemic has hampered its intention to publish these datasets by March 2020, such a factor is not relevant to her consideration of applicability of the exemption.

*In all the circumstances of the requests, was it reasonable to withhold the information prior to publication?*

27. With regard to whether it was reasonable to withhold the requested information at the time of the requests, the Cabinet Office emphasised that it would take significant time to gather, collate, cleanse and format the requested information so that it was in a format that could be disclosed.
28. The Cabinet Office explained that it did not possess software to aid the process of compiling the organogram on data.gov.uk. Therefore, raw data had to be downloaded from the Cabinet Office's HR system which had to be cleansed and formatted for distribution to teams across the Cabinet Office. It explained that this engaged lots of staff around the Cabinet Office in validating their datasets, checking that line management chains were correct, and adding in information such as job titles, profession and other information that is not held on the system. The Cabinet Office explained that the data then had to be pulled together and checked before putting it into a very specific template that is used for the upload to data.gov.uk. It emphasised that as the organisation has grown in size, this has become an increasingly difficult, complex, and time consuming task.

29. The Cabinet Office noted that the link to the upload tool on gov.uk ceased to function and threw up (as it continues to do) a 'code 404 Not Found' error. The Cabinet Office explained that it had sought resolution with various parties without success until it recently found that departmental organograms were being hosted elsewhere on gov.uk.
30. In view of the upload tool ceasing to function, the Cabinet Office explained that it was not able to publish the September 2018 junior staff data or the March 2019 staff data in line with its obligations to publish them on data.gov.uk. In the Cabinet Office's opinion it was therefore entitled to rely on section 22 to withhold the staff data from disclosure until this work was complete. The Cabinet Office also argued that it was reasonable for it to withhold the staff data from disclosure until the upload tool was functioning correctly or alternative software had been procured to facilitate its disclosure.
31. The Commissioner appreciates that the Cabinet Office has experienced technical issues in attempting to publish the requested datasets. She also accepts the Cabinet Office's point that it has attempted to liaise with relevant parties in order to resolve these issues, and moreover, has taken the step to procure new software to aid its publication of these datasets. That said, the Commissioner would question why, as a key central government department, the Cabinet Office has only recently found out that departmental organograms are being held elsewhere on gov.uk. Moreover, she also notes that publication of the organograms by central government departments is an established process.
32. However, the Commissioner is nevertheless just persuaded that it was reasonable in all of the circumstances of these requests to withhold the information prior to publication. She has reached this conclusion because she accepts that the Cabinet Office was making genuine efforts and attempts, prior to, and at the point that the requests were submitted, to gather, collate and cleanse the data so that it could be published. Moreover, there were legitimate reasons why the Cabinet Office could not publish the data using the same process it had previously used on to meet the commitment to proactively publish these datasets.
33. Section 22(1) is therefore engaged in relation to both requests.

*Public interest test*

34. The exemption at section 22(1) is qualified by a public interest test. Therefore, the Commissioner has considered whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosure at the time of the request.

35. The Cabinet Office acknowledged that there was a public interest in the disclosure of the requested datasets. However, it argued that that public authorities should have the freedom to determine their own publication timetables, allowing them to deal with the necessary preparation, administration and context of publication. The Cabinet Office argued that this factor attracted particular weight in the circumstances of this case. It explained that staff data published on data.gov.uk is validated and released in a specific file format and is licenced for reuse, noting that the files contain those fields which the government considers appropriate to be published on a regular basis. The Cabinet Office suggested that publication of staff data in this manner enables proper checking of information to ensure accuracy and consistency. It therefore argued that there is a public interest in the published staff data undergoing this process and adhering to this prescribed format rather than it being published prematurely and before the necessary work has been completed to prepare it.
36. The Commissioner agrees that there is a clear public interest in this information being disclosed. Moreover, she considers there to be a clear public interest in this information being disclosed inline with the publication requirements set out in the transparency guidance referenced above. However, she acknowledges the Cabinet Office's point that there also a public interest in ensuring that the staff datasets that are disclosed are ones that are accurate, consistent and in the proscribed format. In light of this, and taking into account the problems that the Cabinet Office had with publishing the datasets, and the active steps it was taking at the time of the request to address these, the Commissioner has concluded that the public interest favours maintaining the exemption in relation to both requests.



## Right of appeal

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37. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

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

38. 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.
39. 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**  
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