

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 April 2023

Public Authority: Department for Business & Trade

Address: Old Admiralty Building

Admiralty Place

London

SW1A 2DY

Decision (including any steps ordered)

1. The complainant requested information from the Department for Business, Energy & Industrial Strategy ("BEIS")¹ about a consultation on units of measurement.
2. BEIS refused to provide the requested information under section 12(1) (cost limit) of FOIA.
3. The Commissioner's decision is that BEIS has not sufficiently demonstrated that section 12 of FOIA applied to the request.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Provide a fresh response to the request under FOIA that does not rely upon section 12.
5. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

¹ Although this request was submitted to BEIS, in February 2023 BEIS was replaced with a new government department, namely the Department for Business & Trade (DBT). This decision is therefore served on DBT albeit that the decision notice refers to BEIS as it was the body that handled the request and with whom the Commissioner corresponded about this complaint.

pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

6. On 3 June 2022, the complainant made the following request for information to the public authority:

"I am a private citizen who would like to make a FOI request related to the "Choice on units of measurement: markings and sales" consultation.

The consultation paper (link [here](#)) provides "there has been consistent opposition to the current law on units of measurement by some traders and consumers who consider it to be overly prescriptive and an unnecessary restriction on freedom of choice."

Could you please share the evidence that the Government holds to support this assertion? Please include the dates associated with this evidence, and edit out all potential personal information from this response."

7. The public authority refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

Reasons for decision

Section 12 – cost of compliance

8. This reasoning covers whether the public authority is correct to apply section 12(1) (cost limit) of FOIA to the request.² The appropriate limit³ for the public authority in this case is £600.
9. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that it would take one person 3.5 days to search for the information relevant to the request. In this case, the request was extremely broad

² <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

³ <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

and doesn't specify a timeframe for the information they are requesting. Initial searches were carried out for the previous three years and BEIS found at least 80 documents which would need to be reviewed to determine if they contained information relevant to the request.

10. The Commissioner invited BEIS to explain fully why it believes the requested information is outside of the cost limit and to provide evidence of a sampling exercise to support their estimate of 3.5 working days. Despite this, BEIS did not cooperate with the Commissioner and as a result, the Commissioner believes that there is insufficient evidence for BEIS to rely on section 12(1).
11. On this basis, the Commissioner's decision is that the public authority should issue a fresh response that does not rely upon section 12(1) of FOIA.

Section 16(1) – The duty to provide advice and assistance

12. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice⁴ in providing advice and assistance, it will have complied with section 16(1).
13. The Commissioner notes that the public authority provided advice and assistance to the complainant by making them aware that they could refine their request to be more specific, for example by requesting information for a specific time frame.
14. The Commissioner is therefore satisfied that the public authority met its obligations under section 16 of FOIA.

⁴ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

Right of appeal

15. 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

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

16. 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.
17. 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

Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF