

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** **6 February 2023**

**Public Authority:** **Cabinet Office**

**Address:** **70 Whitehall  
London  
SW1A 2AS**

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Cabinet Office relating to the reasoning behind why the Cabinet Office had declined to investigate a matter that the complainant had raised previously with it. The Cabinet Office refused the request under section 14(1) of FOIA (vexatious requests).
2. The Commissioner's decision is that the request was vexatious and therefore the Cabinet Office was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

#### **Request and response**

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4. On 3 August 2022, the complainant made the following request for information to the Cabinet Office:

"I'd like to see all emails, meeting and telephone attendance notes, memoranda and any other material relating to [name redacted] decision below, namely that it would be neither appropriate nor proportionate to investigate my suggestion that the Cabinet Office and the senior Permanent Secretaries and other Senior Civil Servants present at the July 2011 meeting may have been lied to by [name redacted], [name redacted] and/or other Defra staff in relation to the Defra EqIA referenced in my email of 15 July 2022."

5. On 26 August 2022, the Cabinet Office responded and said the request was being refused because it was vexatious under section 14(1) of FOIA.
6. Following an internal review, the Cabinet Office wrote to the complainant on 22 September 2022, upholding its position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 25 September 2022, to make him aware of the issue and that a complaint would be submitted. The complainant then submitted their formal complaint to the Commissioner on 9 November 2022.
8. It is not within the Commissioner's remit to consider whether or not the Cabinet Office should have conducted an investigation into the matters raised previously with it by the complainant and referenced within the information request.
9. This notice covers whether the Cabinet Office determined correctly that the information request of 3 August 2022 was vexatious under FOIA.

### **Reasons for decision**

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#### **Section 14(1) – vexatious requests**

10. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
11. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)<sup>1</sup> states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.
12. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.

13. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
14. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("Dransfield")<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
15. Dransfield established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
16. The four broad themes considered by the Upper Tribunal in Dransfield were:
  - the burden (on the public authority and its staff);
  - the motive (of the requester);
  - the value or serious purpose (of the request); and
  - any harassment or distress (of and to staff).
17. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. They stated:

"all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

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<sup>2</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

### **The Cabinet Office's view**

18. The Cabinet Office responded to the complainant that they believed the complainant's earlier request for an investigation was linked to their objection to a system that had not been in place since 2017 and that, with regard to the information request of 3 August 2022:

"Whilst the current request may further your personal interest in the matter, we have not identified an objective wider public interest in the information you are seeking. The nature of the information requested is relevant only to you as an individual requester. The request illustrates unreasonable persistence by seeking to obtain information under FOI on a decision that [name redacted] has fully explained and concluded. Requesting any information informing the decision not to investigate is futile because the factual reasons for the decision have already been given."

19. The Cabinet Office also explained that the correct procedure to follow, about their refusal to conduct an investigation, was to raise a formal complaint and they acknowledged that the complainant had also raised a formal complaint and therefore considered the information request of 3 August 2022 to be an attempt to circumvent that process.

20. The Cabinet Office then explained that it had taken the 'context and history' of the six information requests that the complainant had made since September 2020, into account when refusing this request and considered:

"... the current request is the latest in a series demonstrating what could be described as obsessive behaviour, and dealing with it will cause unnecessary disruption and irritation to Cabinet Office staff."

### **The complainant's view**

21. The complainant is of the view that the Cabinet Office was wrong to refuse to investigate the matters the complainant had asked it to and believes that "the decision not to investigate calls for more transparent reasons ..". The complainant is also concerned "... that there is no other route to accountability". The complainant considers that the matters they had asked to be investigated are of wider public interest.

### **The Commissioner's decision**

22. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.

23. The Cabinet Office had already set out in writing to the complainant its reasons for declining to set up an investigation into the matters the complainant had asked it to.
24. The information request of 3 August 2022 appears to have been an attempt to reopen those matters already considered by the Cabinet Office and explained to the complainant. Furthermore, the complainant was advised that the correct procedure to follow about that matter, was to raise a formal complaint, which the Cabinet Office acknowledged the complainant had also done.
25. The complainant had made a number of apparently related requests to the Cabinet Office and appears to be pursuing a personal vendetta.
26. Within the information request, the complainant appears to be making unsubstantiated allegations of lying, targeted at particular individuals.
27. The Commissioner believes that the request was vexatious and therefore the Cabinet Office was entitled to rely on section 14(1) of FOIA to refuse the request.

**Right of appeal**

28. 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: 0203 936 8963  
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)

29. 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.
30. 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 .....**

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