

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 March 2023

Public Authority: Department for Culture, Media and Sport
Address: 100 Parliament Street
London
SW1A 2BQ

Decision (including any steps ordered)

1. The complainant requested information from the Department for Digital, Culture, Media and Sport ("the public authority")¹. The Commissioner's decision is that the public authority was entitled to refuse to comply with the request in accordance with section 12(1) (cost limit) of FOIA. The Commissioner also finds that the public authority complied with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 7 September 2022, the complainant made the following request for information to the public authority:

"I am sending this request under the Freedom of Information Act.

¹ Following machinery of government changes announced in February 2023, this department is the Department for Culture, Media & Sport and this decision notice is therefore served on that body.

1) Please provide a copy of all correspondence (sent and received) between:

-Ministers of the department

-The permanent secretary

And the following MPs

-Mark Pritchard

-Aaron Bell

-Laurence Robertson

-Ben Bradley

-John Whittingdale

-Esther McVey

-Craig Whittaker

-Jonathan Gullis

-Jack Brereton

Concerning gambling, gambling companies, gambling regulation or the gambling sector. I am happy to limit this request to electronically held records.

2) Please provide a record of all meetings and calls between ministers of the department or the permanent secretary and

-Mark Pritchard

-Aaron Bell

-Laurence Robertson

-Ben Bradley

-John Whittingdale

-Esther McVey

-Craig Whittaker

-Jonathan Gullis

-Jack Brereton

Concerning gambling, gambling companies, gambling regulation or the gambling sector.

Please provide

-A list of these meetings, including topics

-A copy of the minutes recorded of these meetings

-A copy of briefings prepared ahead of these meetings for the minister concerned.

-A list of the titles of any documents considered at these meetings.

I am happy to limit my request to electronically held records.

Please provide information held from 1 January 2021 to date.”

4. The public authority responded on 8 September 2022 and refused to provide the requested information citing section 12 (cost limit) of FOIA as its basis for doing so.

5. The complainant submitted the following refined request on 19 September 2022

“To reduce the scope of my request to a manageable level, I am happy to reduce the scope to searches for department correspondence between ministers of the department and the listed MP's parliamentary emails (emails sent and received including email chains, and a list of any attachments) concerning gambling, gambling companies, gambling regulation or the gambling sector.

For part two of the request, I am also happy to limit this request to a list of the meetings, calls and zooms held between the ministers and MPs on this list including any description, concerning gambling, gambling companies, gambling regulation or the gambling sector.

I am happy as per the original request I am happy to limit my request to electronically held records, and to information held from 1 January 2021 to date.”

6. The public authority responded on 25 October 2022 and again refused to provide the requested information citing section 12 (cost limit) of FOIA. It upheld its position at internal review on 4 January 2023.

Reasons for decision

Section 12 – cost of compliance

7. 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.
8. The public authority considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that even with a reduced scope it was unable to provide the requested information within the cost limit.
9. The public authority explained that, by using a targeted keyword search (each of the named MPs and “gambling”), it identified 834 emails potentially within scope of the request. The public authority considered it would take roughly 2-3 minutes to look through each email, although this did not include any attachments to the emails. It therefore estimated it would take between 28-42 hours to complete the first question of the request alone. If one part of a request triggers the cost limit, then this covers the entirety of the request.
10. The public authority explained that there have been a number of DCMS ministers who have been in post over the specified time period and whose correspondence would require a significant amount of time to compile in order to ensure it has provided a comprehensive response to the request.
11. The public authority added that some of the requested information is not readily available, for example meetings/call records with particular MPs are not centrally located, and are instead distributed within several teams and systems. It explained that it would need to approach officials across multiple private offices and teams to undertake extensive searches through calendars and shared folders to locate in-scope

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

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

information. In addition, the time and resources required is multiplied as the request concerns nine different MPs for which searches would need to be completed.

12. The Commissioner is satisfied that the public authority's arguments above are justified, because it has explained that it would exceed the cost limit in compiling the information for just the first question of the request. Therefore the estimated cost for obtaining the requested information is clearly in excess of the cost limit. This would be even higher were calculations made for the remainder of the request.
13. The Commissioner's decision is that the public authority was correct to apply section 12(1) of FOIA to the request.

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

14. 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).
15. The Commissioner notes that the public authority provided some advice and assistance on how the complainant could refine their request to try to bring it within the cost limit by suggesting ways that the scope of the request could be reduced further. 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

16. 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

17. 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.
18. 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
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