

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

### **Decision notice**

**Date:** 4 August 2023

**Public Authority:** Department for Levelling Up, Housing and Communities

**Address:** 2 Marsham Street  
London  
SW1P 4DF

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

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1. The complainant requested information from the Department for Levelling Up, Housing and Communities ("the DLUHC"). The Commissioner's decision is that the DLUHC 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 DLUHC complied with its obligations under section 16 of FOIA to offer advice and assistance.
2. The Commissioner does not require the DLUHC to take any steps.

### **Request and response**

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3. On 11 April 2023, the complainant made the following request for information to the DLUHC:

"(Note: My previous request was refused on the grounds of excessive expense, I have therefore amended the request to cover only spending to date)

Under Freedom of Information Act, I would like to request the following information: Spending to date (i.e. all funds spent) on all promotion and advertising for departmental policy and activities up to the current date. Please break the information down by available criteria such as; date / region / media type (e.g. local radio / print media etc.)"

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

## Reasons for decision

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### Section 12 – cost of compliance

5. This reasoning covers whether the DLUHC is correct to apply section 12(1) (cost limit) of FOIA to the request.<sup>1</sup> The appropriate limit<sup>2</sup> for the DLUHC in this case is £600.
6. The DLUHC considers that the cost of complying with this request would exceed the appropriate limit under FOIA. It has explained that as the complainant did not specify a date range for the request, it would need to provide all of the information held on the requested topic since the formation of the DLUHC in 2001. The DLUHC considered that it would take far more than 24 hours of aggregated staff time in order to determine which information was held, and to ensure it had retrieved all information in scope of the request.
7. The DLUHC explained that it was difficult to estimate how long it would take to perform searches for the requested information as it would be likely that some of the information dating back to 2001 would be in hardcopy format that may be stored in archives along with the associated policy files or may have already been destroyed. DLUHC explained that it was likely that the process for recovering and identifying information would differ for some years and, as a result, there was not a generic formula or method it could apply to assess exactly how long it would take.
8. The DLUHC explained that as not all 'advertising' is funded by or managed centrally, digital searches would be difficult without knowing the individual filing structures and search terms relevant for each team. Another issue was that several teams no longer existed.
9. The DLUHC added that it had previously dealt with a similar request that was limited to 2021 and 2022 data only. Searches for the information revealed that not all the information was held centrally and would have required the DLUHC to approach every policy team within the

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/12>

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2004/3244/regulation/4/made>

department to identify their own individual advertising spend. The DLUHC also consulted its finance directorate that advised that if the request was limited to spend by its central communications team only, it had identified at least 700 potential items for that period alone. The DLUHC would further need to interrogate these items to assess the relevance to the request and provide the detailed breakdown.

10. The Commissioner notes the complainant's comments about requesting information to be broken down to "available criteria", however the issue expressed by DLUHC is that due to the lack of date range and the resulting large time period, it was unable to carry out effective searches to identify what criteria was actually available within scope of the request.
11. The Commissioner is satisfied that the DLUHC's arguments above are justified, because it has explained that it could not easily identify the information held within scope of the request without having to carry out lengthy manual searches in a number of different locations. Due to the significant time period covered by the request this was not possible within the cost limit.
12. The Commissioner's decision is that the DLUHC was correct to apply section 12(1) of FOIA to the request.

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

13. 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 practice<sup>3</sup> in providing advice and assistance, it will have complied with section 16(1).
14. The Commissioner notes that, both in its response and its internal review response, the DLUHC advised the complainant that they could narrow their request by providing a 'to and from' date range in order to try to fall within the cost limit. In its submission to the Commissioner, the DLUHC also highlighted that there is published information which provides data, since 2010, on centrally approved spending on advertising, consultancy, technology and commercial:  
<https://www.gov.uk/government/collections/dluhc-spend-control-data>

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<sup>3</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

15. The Commissioner is therefore satisfied that the DLUHC met its obligations under section 16 of FOIA.

## Right of appeal

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

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**