

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 May 2024

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

Decision (including any steps ordered)

1. The complainant requested information relating to a travel services framework agreement. The Cabinet Office disclosed some information, stated that it did not hold some information, and withheld some information in reliance on the exemption at section 43 of FOIA (prejudice to commercial interests).
2. The Commissioner's decision is that the Cabinet Office does not hold any information other than that which it has disclosed to the complainant. No steps are required.

Request and response

3. On 26 June 2023, the complainant requested the following information from the Cabinet Office:

"With regard the above framework agreement [FY Transaction report – RM6217 – Travel and Venue Solutions], please supply for the last full year:

1. Transaction/invoice reference¹ and description
2. Supplier/TMC handling ie one of the 6 listed at <https://www.crowncommercial.gov.uk/agreements/RM6217/suppliers>
3. HMG entity calling off from the framework
4. Cost centre/Directorate/Project calling off from the framework

¹ www.gov.uk/government/publications/public-procurement-review-service-scope-and-remit

5. Name and contact details of Chief Executive of entity calling off from the framework
6. Transaction value in GBP.”
4. RM6217 is a framework agreement managed by the Crown Commercial Service (CCS), an Executive Agency sponsored by the Cabinet Office. Under the framework, central government departments and all wider public sector and third sector organisations can book air, rail accommodation, meeting venues and additional travel services in the UK and overseas through six travel suppliers.²
5. On 7 July 2023 the complainant clarified that he would like to receive hotel names and locations booked in each case as part of the response.
6. The Cabinet Office responded on 25 July 2023. It confirmed that it held information relevant to the request, but stated that some of it was exempt from disclosure under section 21 of FOIA because it was already accessible via the CCS website³ and Contracts Finder.⁴ The Cabinet Office stated that the remainder of the requested information was exempt under section 40(2) (personal data) and section 43(2) of FOIA (prejudice to commercial interests).
7. The complainant requested an internal review on the same day. He complained to the Commissioner on 18 August 2023 because he had not received the outcome of the internal review.
8. The Commissioner wrote to the Cabinet Office on 20 September 2023 to advise that he would accept the complaint as eligible for investigation without an internal review. This is because the Cabinet Office had exceeded the 40 working days which the Commissioner considers to be the maximum allowable time in which an internal review should be completed.⁵
9. The Cabinet Office provided the complainant with the outcome of the internal review on 5 October 2023. The Cabinet Office maintained its position regarding the exemptions claimed, and reminded the complainant that they could raise concerns about public procurement practice through the Public Procurement Review Service (PPRS).

² <https://www.crowncommercial.gov.uk/agreements/RM6217>

³ www.crowncommercial.gov.uk/agreements/RM6217/suppliers

⁴ www.contractsfinder.service.gov.uk/Search

⁵ <https://ico.org.uk/for-organisations/foi/guide-to-managing-an-foi-request/complaints-internal-reviews/>

Scope of the case

10. The complainant contacted the Commissioner on 6 October 2023 to complain about the way their request for information had been handled. The complainant disputed the Cabinet Office's reliance on the exemptions cited.
11. Following the Commissioner's intervention the Cabinet Office reconsidered the request and issued a revised response on 23 April 2024. At this point the Cabinet Office clarified that it did not hold information relating to parts 1, 4, 5 and 6 of the request. It disclosed the information requested at part 3, and withheld the information falling within the scope of part 2 under section 43(2) of FOIA.
12. The complainant remained dissatisfied and asked the Commissioner to investigate.

Reasons for decision

Information not held

13. The Cabinet Office stated that it did not hold information relating to parts 1, 4, 5 and 6 of the request. The Cabinet Office interpreted these questions as referring to each individual transaction or booking made through the framework. It explained that it did not hold this information because bookings were made directly by each organisation.
14. The Commissioner's published guidance states that when considering whether information is held, the Commissioner uses the civil standard of proof, ie whether it is likely or unlikely on the balance of probabilities.⁶ The Commissioner will consider the extent and quality of any searches conducted by the authority, any other explanations provided, and the complainant's reasons for believing that the information is held.
15. The complainant did not challenge the Cabinet Office's interpretation but maintained that "Suppliers would have the transactional data in order to invoice". They argued that the Cabinet Office must have asked them for this data in order to size the contract and know who was calling off from the framework. The complainant also argued that the Cabinet Office

⁶ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/determining-whether-we-hold-information/>

must hold contact details at each entity calling off from the framework, whether this was the Chief Executive or someone else.

16. The Commissioner has seen no evidence to indicate that the Cabinet Office does actually hold the information at parts 1, 4, 5 and 6 of the request. He acknowledges the complainant's position but is not persuaded that the Cabinet Office would have a business need to obtain details of every transaction made through the framework. Therefore, on the balance of probabilities the Commissioner finds that the Cabinet Office does not hold the information at parts 1, 4, 5 and 6 of the request.
17. The Commissioner has also considered whether the Cabinet Office holds the information requested at part 2, ie supplier information. The Cabinet Office stated that this information was exempt from disclosure by virtue of section 43(2) of FOIA. However, the information provided to the Commissioner by the Cabinet Office does not, in the Commissioner's opinion, fall within the scope of the request.
18. As set out at paragraph 16 above the Cabinet Office interpreted the complainant's request as asking for specific information relating to each individual transaction or booking made through the framework. The Commissioner has accepted the Cabinet Office's position that it does not hold information relating to each transaction. In the Commissioner's opinion it follows that the Cabinet Office would not hold the name of the supplier used in respect of each individual transaction.
19. The information provided to the Commissioner by the Cabinet Office comprised summary information, rather than details of individual transactions. The Commissioner observes that, under the Cabinet Office's interpretation (with which the Commissioner agrees), the request was not for summary information.
20. In light of the above the Commissioner concludes that the information provided to him by the Cabinet Office does not fall within the scope of the request. The Cabinet Office is only required to consider disclosing information that falls within the scope of the request, therefore it cannot be required to disclose this information to the complainant.
21. The Commissioner finds that the Cabinet Office does not hold the information requested at part 2 of the request. Accordingly he has not gone on to consider the Cabinet Office's application of the exemption at section 43(2) of FOIA.

Procedural matters

Section 1: general right of access

Section 10(1): time for compliance

22. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
23. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
24. In this case the Cabinet Office initially stated that it held the requested information. However, as set out above the Cabinet Office subsequently revised its position with regard to parts 1, 4, 5 and 6 of the request. Furthermore the Commissioner has found that the Cabinet Office does not hold information falling within the scope of part 2 of the request.
25. The Commissioner records that the Cabinet Office failed to comply with section 1(1)(a) and section 10(1) in respect of parts 1, 2, 4, 5 and 6 of the request.

Right of appeal

26. 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
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

27. 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.
28. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Sarah O’Cathain
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Information Commissioner’s Office
Wycliffe House
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