

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

### **Decision notice**

**Date:** 26 February 2013

**Public Authority:** The Cabinet Office  
**Address:** 1 Horse Guards Parade  
London  
SW1A 2HQ

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

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1. The complainant made four requests to the Cabinet Office within the space of 24 hours. The Cabinet Office aggregated the requests on the basis that they were from the same person and for related information.
2. Citing section 12 of FOIA, the Cabinet Office advised that it considered that the cost of compliance with the four requests would, together, exceed the appropriate limit of £600.
3. The Commissioner's decision is that the Cabinet Office is able to consider Requests (1), (3) and (4) together. However he has determined that Request (2) should be dealt with separately.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - issue a fresh response in respect of Request (2); and
  - issue a fresh response in respect of Requests (1), (3) and (4).
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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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6. The complainant wrote to the Cabinet Office on 23 March 2012, submitting four separate requests. Full details of the requests are in the Annex to this decision notice. In summary, the four requests were for:
  - *correspondence between David Cameron and Sir John Beddington on the subjects of climate change, global warming or subjects related to the above such as biodiversity;*
  - *information on meetings between David Cameron and the members of the oil industry BP, Royal Dutch Shell, Exxon Mobil or groups known to represent the above;*
  - *information relating to meetings between David Cameron and Rajendra Pachauri of the Inter-governmental Panel on Climate Change (IPCC) during Cameron's term as Prime Minister; and*
  - *information about David Cameron's visit to UEA CRU, Tyndall Centre, Hadley Centre etc.*
7. For the purposes of this decision notice, the Commissioner will refer to the requests as Request (1), Request (2), Request (3) and Request (4) respectively.
8. The Cabinet Office responded on 24 April 2012. It advised that it had aggregated the four requests under regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 for the purpose of estimating whether the cost of compliance would exceed the appropriate limit. It further advised that it considered that the cost of compliance with the requests would exceed the appropriate limit of £600 - citing section 12 of FOIA. To the extent that the EIR apply, it cited the exception under regulation 12(4)(b) and (c).
9. Following an internal review the Cabinet Office wrote to the complainant on 19 July 2012 upholding that position. The Commissioner notes that the Cabinet Office advised the complainant that any information it held within the scope of an appropriately narrowed request may be subject to one or more of the FOIA exemptions and/or EIR exceptions.

## Scope of the case

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10. The complainant contacted the Commissioner on 7 September 2012 to complain about the way his requests for information had been handled. Specifically, he said:

*"I would like the ICO to review whether or not the Cabinet Office was correct, or would have been correct, to aggregate the requests in the manner they did".*

11. The Commissioner considers the scope of his investigation – and the scope of any appeal in relation to his decision in this case - to be:
- i) whether the Cabinet Office was entitled to aggregate any or all of the four the requests under FOIA, and
  - ii) whether the Cabinet Office was entitled to consider any or all or the four request together for the purposes of regulation 12(4)(b) of the EIR

He has not considered the extent to which the information within the scope of those requests is environmental or non-environmental information.

## Reasons for decision

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12. Section 1(1) of FOIA does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
13. Regulation 12(4)(b) of EIR states that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable.
14. Under FOIA, where a public authority receives multiple requests, it should ensure that each request can be aggregated in accordance with the conditions laid out in the Fees Regulations. Any unrelated requests should be dealt with separately for the purposes of determining whether the appropriate limit is exceeded.
15. When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
  - made for the same or similar information; and
  - received by the public authority within any period of 60 consecutive working days.
16. The intention of this provision is to prevent individuals or organisations evading the appropriate limit by dividing a request into smaller parts.
17. It is not in dispute that the requests in this case were made by one individual, nor that they were received by the Cabinet Office within a period of less than 60 consecutive days.
18. Accordingly, the Commissioner considers that the issue for him to decide in this case is whether each of the four individual requests is for the same or similar information.

*Are the requests for the same or similar information?*

19. Regulation 5(2) of the Fees Regulations requires that the requests which are to be aggregated relate "to any extent" to the same or similar information. The Commissioner acknowledges that this is quite a wide test: however, he expects public authorities to ensure that the requests meet this requirement.
20. The Cabinet Office told the complainant that it considered that the four requests in this case:
- "relate, to an extent, to the same or similar information ... on the basis that they all relate to climate change and/or the energy industry".*
21. While acknowledging that each case needs to be considered on a case by case basis, in the Commissioner's view requests are likely to relate to the same or similar information where, for example, the requestor has expressly linked the requests, or where there is an overarching theme or common thread running between the requests in terms of the nature of the information that has been requested.
22. In correspondence with the Commissioner, the complainant described his requests as relating to:
- "large, significant overarching themes such as climate change and/or the energy industry".*
23. However, he told the Commissioner:

*"While the requests are of similar nature to the extent that they concern David Cameron and environmental or energy issues, they are requesting distinctly different discrete pieces of information".*

24. He further said:

*"To conclude that requests seeking information relating to the Prime Minister's interaction with various aspects of climate change and/or the energy industry – ie with the oil industry; the government's chief scientific adviser; the Inter-governmental Panel on Climate change and some of the leading UK climate change research institutions amounts to seeking similar information cannot be the case, however wide the test".*

25. The Commissioner has considered the wording of each of the individual requests in this case. He has also considered the Cabinet Office's submissions, and those of the complainant, in relation to the four requests.
26. The Commissioner is satisfied that requests 1, 3 and 4 cover the same broad information: the combination of David Cameron and climate change.
27. During the course of his investigation, the Commissioner invited the Cabinet Office to explain why it considers that a response to Request 2 (information relating to meetings and correspondence between David Cameron and BP, Shell, Exxon Mobil and any other individual organisation known to No 10 to represent those companies) also relates to the combined topic of David Cameron and climate change.
28. The Cabinet Office's response did not provide the Commissioner with its reasoning or with examples of the information it holds within the scope of the request.
29. In the absence of any evidence from the Cabinet Office in support of its argument that the requested information relates, to an extent, to the same or similar information as the other three requests, the Commissioner has necessarily relied on an objective reading of the request.
30. Having considered the wording of Request (2), the Commissioner accepts that the request relates to information about David Cameron. However, he is not satisfied that the subject matter of any information held by the Cabinet Office within the scope of that request is also necessarily about climate change. In that respect he considers it likely that information in the scope of Request (2) may also comprise information on matters other than climate change.

*Can the requests be aggregated?*

31. With respect to Request (2), the Commissioner considers that this request is unrelated to the other three and should be dealt with separately for the purposes of determining whether the appropriate limit is exceeded.
32. With respect to Requests (1), (3) and (4) the Commissioner is satisfied that, to the extent that they relate to FOIA, they are similar enough to be aggregated under the Fees regulations for the purposes of determining whether the appropriate limit is exceeded.
33. Also with respect to Requests (1), (3) and (4), he is satisfied that they broadly relate to the same information and, to the extent that they relate to EIR, and for the purposes of applying regulation 12(4)(b), they are similar enough to be considered together.
34. As the Commissioner's decision is that the Cabinet Office was entitled to consider some, but not all, of the four requests together, he requires the Cabinet Office to issue fresh responses to the requester. Specifically he requires the Cabinet Office to issue a response with respect to Requests (1), (3) and (4) and a separate response with respect to Request (2).
35. The Commissioner's decision in this case should not be taken to mean that he will always accept that requests relating to Mr Cameron and climate change will be able to be treated as one request. That decision will always depend upon the individual circumstances of the case.

## **Right of appeal**

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36. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

37. 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.
38. 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 .....**

**Lisa Adshead**  
**Group Manager**  
**Information Commissioner's Office**  
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