

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 July 2023

**Public Authority:** Department for Transport  
**Address:** Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

### Decision (including any steps ordered)

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1. The complainant has requested information about marine pilotage and the Maritime Minister from the Department for Transport (DfT).
2. The Commissioner's decision is that, on the balance of probabilities, DfT doesn't hold the information requested in parts 1 and 3 of the request and complied with section 1(1)(a) of FOIA. However, DfT breached section 10(1) of FOIA as it failed to comply with section 1 within 20 working days of receiving the request.
3. It's not necessary for DfT to take any corrective steps.

### Request and response

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4. On 8 March 2023, the complainant wrote to DfT and requested:
  1. The pilotage records for Londonderry between 1 June 2015 and 31 December 2015.
  2. The name of the Maritime (shipping [sic]) Minister during that period.
  3. The roles and responsibilities of the Maritime Minister during that period.

5. DfT's final position is that the complainant already has the information requested in part 2 of the request and holds no information within scope of the remaining two parts.

## Reasons for decision

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6. This reasoning covers whether DfT holds any recorded information falling within scope of parts 1 and 3 of the complainant's request.
7. Under section 1(1) of FOIA, any person making a request for information to a public authority is entitled a) to be told whether it holds information within the scope of the request and b) to have that information communicated to them if it's held and isn't exempt information.
8. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
9. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
10. In its response to part 1 of the request, DfT explained to the complainant that it was only obliged to keep [associated] statutory financial records, which wasn't what they'd requested. DfT noted that it was aware from subsequent correspondence that the complainant already had the information requested in part 2.
11. Regarding part 3 of the request, DfT explained that the incumbent Secretary of State decides the precise roles and responsibilities of Ministerial portfolios. It said that being so long ago and following several reshuffles of Ministers and Secretaries of State, it doesn't hold the precise responsibilities allocated to the Maritime Minister at that time. Generally, DfT said, the role of Maritime Minister would oversee the policy formation and work carried out by the Maritime Directorate of DfT, which incorporates oversight of the Maritime and Coastguard Agency, HM Coastguard and the various policy areas of the directorate.
12. In its internal review, DfT confirmed that its officials had carried out a thorough search for any relevant information and did so even though

they reasonably believed that the information wouldn't be held. In response to a point the complainant had made, DfT also advised, correctly, that FOIA doesn't oblige it to obtain information from another public authority in order to comply with a request.

13. The Commissioner has reviewed DfT's response and the explanations it provided as to why it doesn't hold the requested information. He is satisfied DfT has taken reasonable and proportionate steps to establish whether the information is held.
14. The Commissioner acknowledges that the complainant considers that DfT holds relevant information. He has taken account of the material the complainant has sent to him which they consider supports their view that DfT holds the information they've requested. However, this material is more focussed on wider matters associated with marine pilotage and the Pilotage Act 1987.
15. As explained above, the Commissioner is satisfied that DfT has taken reasonable steps to search for the requested information. He also notes the amount of time that has passed since the dates within the scope of the request. He is satisfied it's likely that if any information were ever held, due to retention policies, it will have been disposed of before the current request.
16. Based on the above, the Commissioner therefore finds, on the balance of probabilities, that DfT holds no information falling within the scope of parts 1 and 3 of the request and complied with section 1(1)(a) of FOIA.

### **Procedural matters**

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17. Under section 10(1) of FOIA a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
18. The complainant submitted their request to DfT on 8 March 2023 and DfT didn't respond until 28 April 2023. As such, DfT breached section 10(1) of FOIA.

## **Right of appeal**

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19. 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)

20. 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.
21. 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**

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**