

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 21 September 2023

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

### Decision (including any steps ordered)

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1. The complainant requested from the Home Office information regarding National Referral Mechanism (NRM) reconsiderations. The Home Office considered the information exempt from disclosure under section 22(1) (information intended for future publication) of FOIA.
2. The Commissioner's decision is that the Home Office was entitled to rely on section 22(1) of FOIA to withhold the information requested. Therefore, the Commissioner does not require the Home Office to take any further steps as a result of this decision.

### Background information

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3. The Home Office provided the Commissioner with background information regarding NRM statistics. It explained:

"Statistics on referrals to the National Referral Mechanism, for potential victims of modern slavery, are published on a regular basis. The most recent publication was of statistics for the 2<sup>nd</sup> quarter of 2023 which are available at [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, April to June 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk).

The next planned publication, of statistics for the 3<sup>rd</sup> quarter of 2023, will be at the following link from 2 November 2023: [Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, July to September 2023 - Official statistics announcement - GOV.UK \(www.gov.uk\).](https://www.gov.uk/government/news/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-july-to-september-2023)"

4. The Commissioner noted that the complainant had highlighted to the Home Office "the published statistics do not at present, include data about reconsiderations."

## **Request and response**

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5. On 21 June 2023, the complainant wrote to the Home Office and requested information in the following terms:  
  
"Please provide the number of National Referral Mechanism (NRM) reconsiderations between 1 January 2022 and present, broken down by:  
  
-NRM stage (e.g. 'reasonable' or 'conclusive grounds')  
-Reconsideration outcome  
-Year of reconsideration"
6. On 4 July 2023 the Home Office responded and confirmed it holds the information requested. It considered the information exempt from disclosure under section 22(1) (information intended for future publication) of FOIA.
7. On 28 July 2023 the complainant asked for an internal review. On 10 August 2023 the Home Office provided its review response and maintained its original position.

## **Reasons for decision**

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8. This reasoning covers why the Home Office was entitled to rely on section 22(1) of FOIA to withhold the requested information.

## **Section 22 – information intended for future publication**

9. Section 22(1) of FOIA states that information is exempt information if:
  - (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),

- (b) the information was already held with a view to such publication at the time when the request for information was made, and
  - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).
10. For the exemption in section 22 to apply, the public authority must have a settled expectation that the information will be published at some future date – even if no precise date has been set.
  11. The Home Office was asked for evidence which demonstrated there was a settled intention to publish the requested information at the time of the request. It provided the Commissioner with three emails: a proposal to include in upcoming modern slavery statistics publications additional data about reconsiderations and other things; an email which confirmed an intention to publish reconsideration data inclusive of the time period which the complainant asked for in her request; and an email which provides the specification for data on reconsideration decisions.
  12. The Home Office was also asked whether the publication date was determined when the request was received, and if so, the date on which publication will take place. It replied saying Home Office Analysis and Insight were originally planning to publish the information on 10 August 2023 but had to delay due to data quality issues. The Home Office confirmed the current intention is to publish at the same time as the next quarterly publication on 2 November 2023.
  13. The Home Office explained that the reconsideration statistics will be broken down by quarter and will include data from at least 2022. The Home Office further explained “data processing and cleansing is underway and if data quality is good prior to 2022 we will publish data for a longer period.”
  14. The Commissioner accepts it was reasonable for the Home Office to apply section 22 of FOIA to the information. The exemption is therefore engaged and the Commissioner has gone on to consider the public interest test.

### **Public interest test**

15. The Home office said it recognises there is a public interest in publication of data on reconsideration, and that is the reason it intends to publish the information.

16. The Home Office does not accept that there is a public interest in disclosure of the requested information in advance of the planned publication date. It said extracting the data and getting it ready for publication is not a quick or straightforward process and cannot be rushed. The data, it explained, has to be cleansed, and quality checked and the work has to be fitted in with the process for publication of the quarterly NRM statistics.
17. The Home Office reiterated its original response that it must ensure statistical information intended for publication, meets the standards and requirements set for departmental publications and for government statistics. It argued it would not be in the public interest for the Home Office to release the information without meeting such standards, which disclosure in advance of planned publication would entail.
18. The Home Office also argued disclosure before the planned date would suggest a willingness to disclose similar statistical information on an ad hoc basis in response to individual requests under the FOIA. This, the Home Office said, would disrupt the pre-planned publication procedures and timetables by diverting staff resources into meeting specific requests. It added, this might be justifiable in cases where statistical information is not published as part of the pre-planned process.
19. The Home Office confirmed there is a settled intention to publish the information requested as soon as reasonably practicable. It considers, "it is reasonable in all the circumstances that the information should be withheld from disclosure until the planned publication date."

### **Balance of the public interest test**

20. The Commissioner recognises the public interest in the Home Office publishing the information, as it would promote transparency, and in limiting any delays to publication. He welcomed the Home Office's evidence that the information will be published as soon as it is practical.
21. However, the Commissioner considers that there was a stronger public interest in the Home Office being able to publish the requested information in a controlled manner following the required quality checks. Premature disclosure of the information would be likely to impact on its quality and raise issues which the Home Office would have to divert resources into countering.
22. The Commissioner is satisfied that the information (number of NRM reconsiderations) is intended to be published at the next quarterly publication on 2 November 2023. He is also satisfied that when the request was made to the Home Office, there was an intention to publish the information requested.

23. Having taken the arguments into account, the Commissioner's decision is that the balance of the public interest favours maintaining the exemption.

## Right of appeal

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24. 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)

25. 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.
26. 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

**Joanna Marshall**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**