

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

### **Decision notice**

**Date:** 10 April 2024

**Public Authority:** Post Office Limited  
**Address:** 100 Wood Street  
London  
EC2V 7ER

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

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1. The complainant requested information about people from Fujitsu and the Post Office Limited who gave assurances about the Horizon IT system as mentioned in a letter by the former Chief Executive. The Post Office Limited ('the Post Office') refused to comply with the request citing section 12 (cost limit) of FOIA.
2. The Commissioner's decision is that the Post Office was entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. The Commissioner also finds that the Post Office complied with its obligations under section 16 to offer advice and assistance.
3. The Commissioner does not require the Post Office to take any steps.

#### **Request and response**

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4. On 4 September 2023, the complainant made the following request for information to the Post Office:

"In a letter to Darren Jones on June 24 2020 Paula Vennells said this "But what appears now to have been the actual or potential root cause of many reported problems, namely the defects in the IT, was not uncovered: the problems with Horizon 1 and 2 were not apparent to the Board, which was assured by Fujitsu and trusted colleagues at Post Office that there were not - and there had not been - any systemic problems with the system. "Who were the

- Fujitsu people and who were the trusted Post Office colleagues who gave assurances? What were their names, roles, job descriptions and qualifications for providing such comfort to the Board?"
5. The Post Office responded on 16 October 2023. It stated that it was unable to locate any information within scope of the request as the letter specified was written after Paula Vennells had left her employment at the Post Office.
  6. In their request for an internal review of 19 October 2023, the complainant provided the following clarification:

"The point is not the date of Paula's evidence but what she says. The Board(yourselves)received evidence of Horizon robustness. In your 2018 report laid to Parliament you say ". Post Office is robustly defending the claim, believes it lacks merit, but welcomes the opportunity to have these matters resolved through the Court managed Group Litigation Order. "What were the assurances [sic] and who supplied them after all they prompted you to spend hundreds of millions of taxpayer money on a doomed strategy. Who gave you the confidence to proceed and what did they say that allowed you to tell Parliament the Claim lacks merit?"
  7. As part of its internal review response, provided on 20 December 2023, the Post Office advised that it had carried out searches and had identified information that may be in scope of the request. However, it considered that it would not be able to confirm and provide this within the cost limit set out in section 12 of FOIA. In terms of advice and assistance, the Post Office suggested that the complainant could narrow the scope of their request to focus more clearly on the precise information they were seeking.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 27 December 2023 to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if the Post Office has correctly cited section 12(1) of FOIA in response to the request. The Commissioner has also considered whether the Post Office met its obligation to offer advice and assistance, under section 16 of FOIA.

## Reasons for decision

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### Section 12 – cost of compliance

10. Section 12(1) of the FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit” as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).
11. Section 12(2) of the FOIA states that subsection (1) does not exempt the public authority from the obligation to comply with paragraph (a) of section 1(1) (the duty to inform an applicant whether it holds information of the description specified in the request) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit. The Post Office relied on section 12(1) in this case.
12. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The appropriate limit for the Post Office is £450.
13. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours for the Post Office.
14. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
15. A public authority does not have to make a precise calculation of the costs of complying with a request; instead only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency EA/2007/0004*, the Commissioner considers that any estimate must be “sensible,

realistic and supported by cogent evidence". The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.

16. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
17. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

**Would the cost of compliance exceed the appropriate limit?**

18. As is the practice in a case in which the public authority has informed the complainant that it holds the information, the Commissioner asked the Post Office to provide a detailed estimate of the time or cost involved in providing the information falling within the scope of this request.
19. In its submission to the Commissioner, the Post Office stated that, when it received the request, it undertook an electronic search of all its mailboxes using the search terms: "Paula Vennells" and "Darren Jones" and "Letter" for the period, 1 March 2020 to 1 August 2020. Given that Paula Vennells had left over a year before she sent the letter mentioned in the request, the Post Office explained that it chose these search terms to determine whether it had received any information in relation to the letter, that could answer the question about which individuals were the "Fujitsu people" and "trusted Post Office colleagues". The searches yielded 294 results, which were reviewed and deemed outside the scope of the request. The Post Office therefore informed the complainant that it did not hold the requested information.
20. The Post Office explained that, when it received clarification within the internal review request, it determined that the internal review response would require a much wider date-range and scope of records to be searched. It undertook three further searches, between the period 1 April 2017 to 30 June 2020, which covers the beginning of the 2017/18 financial year to after the date of the letter. It initially searched all Post Office mailboxes, using the keywords: ("Assure" or "Assurance" or "Claim" or "Robust" or "Confidence" or "Risk") and "Fujitsu" and "Litigation" and "Horizon" and "Paula Vennells". The Post Office explained that this search was designed to capture any email where Paula Vennells may have discussed or gained either assurance or

confidence in specific people within Post Office or Fujitsu, regarding the robustness of the Horizon IT system. This search yielded 2,691 emails and a sampling exercise estimated it would take the Post Office two minutes to manually review each email, which totals more than 89 hours.

21. The Post Office added that, in order to be helpful, it attempted to provide a more focused search, using the keywords: "Litigation" and "Horizon" and "Assure" and "Assurance" and "Confidence" and "Claim" and "Robust" and "Fujitsu" and "Paula Vennells" and "Risk", which yielded 101 emails. The Post Office also carried out a search of Paula Vennells' inbox to determine whether she had named "Fujitsu people" or "trusted Post Office colleagues". It used the keywords: ("Assure" or "Assurance" or "Claim" or "Robust" or "Confidence" or "Risk") and "Fujitsu" and "Litigation" and "Horizon". This yielded 115 emails.
22. The Post Office carried out a sampling exercise of these 216 emails, many of which had multiple attachments. It determined that it would take approximately five minutes to manually review the emails, which totalled 18 hours. Given the time it had already taken to review the original search (294 emails), and the sampling exercise for the initial internal review search, the Post Office deemed that this additional review would take it beyond the cost limit. The Post Office added that during its sampling exercises, it did not locate any information within scope of the request.
23. When preparing its submission for the Commissioner, the Post Office carried out a further search to help explain the difficulty of locating any information in scope of the request and internal review request. It used the keywords: "Paula" and "trust\*" (the \* allows for any words that start with 'trust', such as "trust" or "trusted"), for the time period, 1 April 2012 to 30 April 2019 (corresponding with Paula Vennells' tenure at the Post Office). This search yielded 819,850 items. The Post Office did not review these as it was clear that to do so would take significantly more than the 18 hours allowed for within the cost limit.
24. Given the wide search ranges required to cover the scope of the request and the large volume of potentially in-scope emails returned, the Commissioner considers that the Post Office estimated reasonably that it would take more than the 18-hour limit to respond to the request. The Post Office was therefore correct to apply section 12(1) of FOIA to the complainant's request.

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

25. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request if it's

reasonable to do so. 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>1</sup> in providing advice and assistance, it will have complied with section 16(1).

26. The Commissioner notes that, in its internal review response, the Post Office suggested that the complainant could narrow the scope of their request to focus more clearly on the precise information they were seeking.
27. Given the scope of the complainant's request, the Commissioner is of the view that no further meaningful advice could have been offered as to ways to refine the request in order to bring it within the cost limit. The Commissioner is therefore satisfied that the Post Office did comply with section 16 of FOIA when dealing with this request.

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

## **Right of appeal**

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28. 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)

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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