

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

### **Decision notice**

**Date:** 5 July 2024

**Public Authority:** Department for Levelling Up, Housing and Communities

**Address:** 2 Marsham Street  
London SW1P 4DF

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

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1. The Commissioner's decision is that the Department for Levelling Up, Housing and Communities (DLUHC) is entitled to rely on section 12(1) of FOIA to refuse the request for correspondence about the transfer of SeAH Steel Holdings monopile factory as complying with it would exceed the appropriate cost limit. However, DLUHC didn't comply with its obligation under section 16(1), which concerns advice and assistance.
2. The Commissioner requires DLUHC to take the following step to ensure compliance with the legislation:
  - In line with section 16(1) of FOIA, either indicate to the complainant the terms of a refined request for information with which DLUHC might be able to comply within the cost limit or confirm to them that the current request can't be meaningfully refined.
3. DLUHC must take this step within 30 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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4. The complainant made the following information request to DLUHC on 15 February 2024:

“To request all written correspondence between Secretary of State the Rt Hon Michael Gove MP and the following people:

Kwasi Kwarteng, Secretary of State BEIS  
Boris Johnson, Prime Minister of the UK  
Ben Houchen, Tees Valley Mayor  
Julie Gilhespie, Group Chief Executive TVCA and STDC  
Joosung Lee, CEO of SeAH Steel Holdings  
Peter Stephenson, CEO of Able UK Ltd

Between the following dates: 7 July 2021 and 14 February 2022

On the subject of the transfer of the SeAH Steel Holdings monopile factory from Able Marine Energy Park in North Humberside to South Bank Quay in Teesside.”

5. In its response to the request dated 15 March 2024, DLUHC relied on section 12 of FOIA to refuse the request. It explained that it had searched its correspondence system between the dates specified and had located in excess of 100 results for “SeAH Steel Holdings” which included all case types with any combination of those words. DLUHC said it would then be necessary to manually review these for relevance and then cross reference them by the requested correspondents.
6. DLUHC told the complainant that it could possibly provide them with some information within the appropriate limit if they narrowed the scope of their request but advised that a new request might also be subject to section 12.
7. DLUHC provided an internal review on 3 May 2024. It said it had contacted the relevant policy team to ask it to consider the request again and specifically, whether “the Department should continue to withhold the information you requested.” Based on these conversations, DLUHC maintained its reliance on section 12 of FOIA. It said it had taken account of the work involved in searching multiple systems for multiple search items, key terms and contacts. Initial checks had strongly indicated that the time it would take to search across its data for relevance would exceed the limit.

## Reasons for decision

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8. This reasoning covers whether DLUHC is entitled to rely on section 12(1) of FOIA to refuse the request and whether there was any breach of section 16(1).
9. Section 12 of FOIA concerns the cost of complying with a request. More detail about FOIA section 12 can be found in the Commissioner's [`Decision notice support materials`](#).
10. In cases where it's relying on section 12, under section 16(1) of FOIA if it's reasonable to do so, a public authority should offer an applicant advice and assistance to help them refine their request.
11. In its submission to the Commissioner, the DLUHC has explained that its Correspondence team searched its correspondence system (eCase) using the key term "SeAH Steel Holdings" for all case types between July 2021 and 14 February 2022. This returned roughly 100 results. A quick dip sample revealed that some of the results didn't relate to "SeAH Steel Holdings" but in fact related to other cases mentioning steel.
12. Therefore, DLUHC says, its main issue with the request relates to the time it would take to identify whether the information is held, then to perform further checks to determine whether the results fell within the scope of the request.
13. In addition, the Department has performed searches using other key terms and contacts in the same period for "Kwasi Kwarteng" (1 result), "Boris Johnson" (around 1,000 results), "Ben Houchen" (17 results), and Julie Gilhespie (0 results). DLUHC says it's possible that any one of these pieces of correspondence might contain a reference to "SeAH Steel Holdings."
14. DLUHC says it would also be necessary to search through relevant Private Office in-boxes, (including PS Robert Jenrick) as some correspondence may have gone directly to/from Private Offices if sent in a Ministerial capacity.
15. By its calculations DLUHC says that when reviewing the (roughly) 1125 cases above, if it took three minutes to read each case to determine if it was relevant, and then extracting the information, then it would take roughly 3,375 minutes or 56.25 hours. That's before any other considerations, like exemptions which might apply, or redactions are taken into account.
16. DLUHC says that it believes that its estimate is realistic, sensible and supported by the evidence. It says there's no quicker way of checking

these pieces of correspondence other than manually reading through the cases on the system once the key word search has brought up the results.

17. Finally, DLUHC says that it considers it addressed the requirement to offer the complainant advice and assistance and directed the Commissioner to its response to the complainant.
18. The request is for correspondence between the former Secretary of State Michael Gove and six individuals over a seven month period, which isn't an especially long period.
19. However, a search of DLUHC's correspondence system under "SeAH Steel Holdings" retrieved over 100 items and a search under the individuals named in the request retrieved over 1,100 items. It's feasible that any of those items could include references to the transfer of the monopile factory.
20. A public authority can't include the amount of time it would take to consider exemptions and redact information under section 12. However, if it took just two minutes to review each of the retrieved items to see if it included information within scope of the request, it would still take approximately 40 hours to review all the items.
21. This is over the 24 hours (and £600) permitted under section 12 of FOIA for government departments like DLUHC. The Commissioner is therefore satisfied that section 12(1) is engaged.
22. With regard to section 16(1), DLUHC advised the complainant that they could submit a reframed request, but it didn't indicate to the complainant the terms of a request it might be able to comply with within the cost limit, or indeed advise that it wouldn't be possible to meaningfully refine the request in any way. As such, the Commissioner isn't satisfied that the DLUHC complied with its obligation to offer advice and assistance under section 16(1) of FOIA.

## Right of appeal

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23. 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)

24. 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.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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