

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

### **Decision notice**

**Date:** 8 October 2024

**Public Authority:** Cabinet Office  
**Address:** 70 Whitehall  
London  
SW1A 2AS

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

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1. The complainant requested information about GCF agreement, accommodation agreements and accessibility to hotel real estate. The Cabinet Office relied on section 14(1) of FOIA (vexatious) to refuse the request.
2. The Commissioner's decision is that the request was vexatious and therefore the Cabinet Office was entitled to rely upon section 14(1) of FOIA to refuse it.
3. The Commissioner does not require any steps.

#### **Request and response**

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4. On 12 March 2024, the complainant wrote to the Cabinet Office and requested information in the following terms:

"CIPS:GCF agreement

In respect of the above long term support agreement between GCF and CIPS, please supply all pertinent emails and associated communications between the following parties and internally within GCF dating from 2017 onwards in respect GCF public sector travel and accommodation agreements including but not limited to RM6217, specifically as it relates to:

1. Realtime accessibility of hotel real estate (lounger terraces, spa areas etc) subject to the Equality Act 2010

2. The raising of a suspicion of procurement fraud and CIPS membership and counterparty exposure by accessory to the size and scale of ~25m GBP over the 7 year term of the CIPS:GCF agreement in respect of the blank FOIs for [real time] accessibility of hotel lounge [real estate] returned in the face of EWHC1842 on material data, triggering the suspicion of such fraud by reason of faulty process and false representation, aided and abetted by bidders and suppliers in full knowledge of the suspicion of such suspected offenses

Parties and communication in scope of the FOI request:

1. CIPS:GCF
2. Suppliers and bidders (ie successful and not successful):GCF
3. Internal GCF

For a situation self-assessed by CIPS as “serious” therefore subject to SI FOI from the Charity Commission (requested), we would expect to see some content.”

5. The Cabinet Office responded on 12 April 2024. In its refusal notice it cited section 14(1) of FOIA – vexatious request. A position which it maintained in its internal review.

## Reasons for decision

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### Section 14(1) – vexatious requests

6. The following analysis considers whether the request was vexatious.
7. Section 14(1) of FOIA states that a public authority is not obliged to comply with a request for information if the request is vexatious.
8. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s updated guidance on section 14(1)<sup>1</sup> states, it is established that section 14(1) is designed to protect public authorities by allowing them to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

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<sup>1</sup> <https://ico.org.uk/for-organisations/dealing-with-vexatious-requests-section-14/>

9. FOIA gives individuals a greater right of access to official information in order to make bodies more transparent and accountable. As such, it is an important constitutional right. Therefore, engaging section 14(1) is a high hurdle.
10. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.
11. The emphasis on protecting public authorities' resources from unreasonable requests was acknowledged by the Upper Tribunal (UT) in the leading case on section 14(1), *Information Commissioner vs Devon County Council & Dransfield* [2012] UKUT 440 (AAC), (28 January 2013) ("*Dransfield*")<sup>2</sup>. Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
12. *Dransfield* established that the key question for a public authority to ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.
13. The four broad themes considered by the Upper Tribunal in *Dransfield* were:
  - the burden (on the public authority and its staff);
  - the motive (of the requester);
  - the value or serious purpose (of the request); and
  - any harassment or distress (of and to staff).
14. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. It stated:

"all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA" (paragraph 82).

### **The Cabinet Office's view**

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<sup>2</sup> <https://administrativeappeals.decisions.tribunals.gov.uk/Aspx/view.aspx?id=3680>

15. The Cabinet Office advised the Commissioner that the complainant has made various complaints to different authorities in relation to one specific matter, sun loungers.
16. The Cabinet Office advised that the complainant was first in contact with a bank regarding funding for specific lounge invention, but due to a refusal, the complainant filed a complaint with the Financial Conduct Authority's (FCA) which was declined. In February 2020, the complainant contacted the Office of the Complaints Commissioner ('the Complaints Commissioner') regarding the FCA's handling of the complaint regarding the bank.
17. The Complaints Commissioner explained to the complainant that the issue raised was a "general policy issue" rather than a regulatory practice matter. The Complaints Commissioner advised that it does not investigate general policy matters and complaints of this nature could be raised with a member of Parliament instead. In response to this conclusion, the complainant contacted HM Treasury (HMT) in April 2020 and copied the Cabinet Office into the correspondence. The complainant asked for the decision by the Complaints Commissioner to be rendered 'null and void'.
18. The Cabinet Office advised that just these initial events show the complainant's pursuits of these matters. It advised that the events demonstrated that when the complainant did not receive the wanted outcome from the bank, they then complained to the FCA. When the FCA declined to investigate, the complainant turned to the Complaints Commissioner. When the report of the Complaints Commissioner proved unsatisfactory to the complainant, they then referred the matter to HMT copying in the Cabinet Office and others.
19. The Cabinet Office explained that following the events above, it received its first request from the complainant in November 2021. This request asked for the following information:  
  
"2020:
  1. How many room-nights were spent by the public sector in hotel locations globally where there are sun-loungers on-premise (room-nights by country, spend in GBP)
  2. Total spend in locations globally where there are sun-loungers on-premise. Includes spend on Meetings, Incentives, Conferences and Exhibitions"
20. The Cabinet Office informed the complainant that the requested information was not held, a position which it maintained during its internal review.

21. Following this request, the complainant had a series of correspondence with Crown Commercial Service (CCS), which is a department within the Cabinet Office, regarding this matter. CCS advised the complainant in various correspondence that it monitored the performance of suppliers in respect of social value and responsibility, it did not have visibility, control or ownership of departmental travel policies.
22. In a further request, the complainant asked for the amount the Government spent on travel services with suppliers that "perpetuated inequalities". CCS reiterated that buyers were responsible for manging their own policies and CCS did not hold such travel policies.
23. In February 2022, the complainant contacted CCS regarding the corporate social responsibility schedule of the Travel and Venue Solutions framework agreement. The complainant specifically asked how providers, under the framework agreement, were complying with their equality obligations without using the complainant's sun lounger invention. CCS informed the complainant that the agreement only requires providers to report on delivery of social milestones and consider policy themes such as economic inequality, climate change and equal opportunity.
24. In March 2022, the complainant wrote to CCS asking it to set out its next steps, as the complainant "could not see how CCS addresses accessibility and legal compliance in the public sector travel supply chain in the light of new case evidence." CCS repeated that it had provided all the information it held and that it did not have a dedicated framework agreement for accommodation. It concluded that its agreements provided 'booking solutions' through online and offline travel booking service suppliers.
25. The Cabinet Office explained that the complainant then resumed contact in September 2022. In a new request for information, the complainant asked for the number of times inventions filed with the World Intellectual Property Organization (WIPO) had been used to process complaints in respect of the Equality Act 2010 and Tort law, between 2015 and 2022. The Cabinet Office advised that it did not hold the requested information and that it was not responsible for overseeing compliance/non compliance of the Equality Act 2010.
26. A further request was made in October 2022. This asked for the breakdown of protected characteristics of the travel sourcing team, "with particular attention to disability and RM6217". In the request, the complainant explained that they were seeking "evidence of qualification to actually understand the issue of [real time] accessibility of hotels as places of public accommodation including of the lounge estate" and that they looked forward to the "capture of lounge population and [real

time] accessibility thereof". The complainant was advised that no such information was held.

27. The Cabinet Office explained that it should have become clear at this point that it did not hold information in such detail and any further requests regarding such matters would be futile.
28. Despite this, the complainant contacted the CCS in November 2022, and asked whether it would now collect data on 'real time lounge accessibility' in hotels in order to comply with the Equality Act 2010. The complainant noted that they 'expected' the Cabinet Office to collect such data. The complainant added that 'we want to keep this out from the courthouse if possible'.
29. On 30 April 2023, the complainant contacted the Cabinet Office proposing to issue contempt proceedings against the Minister for the Cabinet Office. Again, asserting that the Government had failed to comply with the Equality Act 2010 on the grounds that the Cabinet Office had responded to their requests regarding on sun lounge population data, with statements that it did not hold the information requested.
30. Following this, the complainant turned their attention to the Travel and Venue Solutions framework agreement and submitted a new request in June 2023. The request asked for various information about the agreement which the Cabinet Office considered to be exempt under sections 21, 40 and 43 of the Act.
31. The Cabinet Office stated that the history of its interactions demonstrates the conduct of the complainant in the pursuit of this matter. It advised that to continue to use the Act in the way the complainant has is manifestly unjustified, inappropriate and an improper use of the formal procedure.
32. The Cabinet Office explained that the complainant has already consumed a considerable amount of official resources. It added that dealing with this request would now be considered as unduly burdensome, particularly when taking into account the quantity of requests made by the complainant over the last three years and the breadth of the information sought.

### **The complainant's view**

33. The complainant advised that their request could not be vexatious as the request was in pursuit of "legal compliance" and "the eradication of fraud".

34. The complainant argued that “the pursuit of natural justice” and “legal compliance” overrides any arguments of vexatiousness.

### **The Commissioner’s decision**

35. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA.
36. Having reviewed the Cabinet Office’s position, the Commissioner is in agreement that the request is vexatious. The complainant has repeatedly asked for information regarding sun loungers and has repeatedly been advised that no such information is held.
37. They have also been told on numerous occasions that the Cabinet Office does not need this information and has no plans to start collecting it.
38. Despite this, the complainant has continued to contact the Cabinet Office with varied requests, which all appear to relate to sun loungers. The Commissioner also notes that the history suggests that the complainant is motivated by a personal financial interest in the requested information rather than a public one.
39. The Commissioner is not convinced that there is a substantial public value in information about sun loungers. To the extent that there would be any value in complying with the request, it is undermined by the complainant’s motivation in making the request and outweighed by the burden of dealing with the request – both on its own and in the context of previous (and likely future) interactions.
40. The complainant may well disagree strongly with the Cabinet Office’s assertion that it does not need this data, but answering this request is not going to resolve matters either way. There are more appropriate avenues open to the complainant if they believe that fraud is being committed or that the Cabinet Office is failing to comply with the law.
41. The Commissioner believes that the Cabinet Office was entitled to rely on section 14(1) of FOIA to refuse the request because it was vexatious.

## Right of appeal

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42. 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)

43. 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.
44. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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