

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

### **Decision notice**

**Date:** 17 December 2024

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

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

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1. The complainant has requested information relating to the application of particular theories of psychology in restricting human rights for the purposes of national security.
2. The above public authority ("the public authority") relied on section 12(1) of FOIA (cost of compliance) to refuse the request.
3. The Commissioner's decision is that the public authority was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner also finds that the public authority complied with its section 16 obligation to offer advice and assistance.
4. The Commissioner does not require further steps to be taken.

#### **Request and response**

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5. On 1 June 2024, the complainant wrote to the public authority and requested information in the following terms:

"Information held, from 2015 onwards, regarding the government's application/usage/adaptation of Maslow's 'hierarchy of needs' (and/or other comparable/applicable/relevant needs-based motivation theories; for reference, Wikipedia page link available here: <https://en.m.wikipedia.org/wiki/Maslow...> ), including scenarios and (operational) examples where available, in reference specifically to potential restrictions to human rights such as is outlined in the following text from the Equality and Human Rights Commission (webpage link available here:

<https://www.equalityhumanrights.com/huma...>): "Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life. They can never be taken away, although they can sometimes be restricted – for example if a person breaks the law, or in the interests of national security. These basic rights are based on shared values like dignity, fairness, equality, respect and independence. These values are defined and protected by law. In Britain our human rights are protected by the Human Rights Act 1998."

Please do not hesitate to reach out if any aspect my request requires further clarification."

6. On 6 June 2024, the public authority sought clarification of the request.
7. On 9 June 2024, the complainant provided the following explanation:

"Essentially, I'm interested in whether the Home Office holds information relating to the application of needs-motivated/needs-based theories of psychology in restricting human rights for the purposes of national security.

I expect therefore that the first question on answering this and providing any relevant info is whether the Home Office, either directly or indirectly (e.g. through other entities it oversees and is responsible for), has an interest in and holds information regarding matters of national security. If the Home Office has no or minimal interest in matters of national security, please do redirect me to other departments that may - that would be most helpful; intuitively however, I struggle to see how this would be possible.

Then, there's the question of whether the Home Office either directly or indirectly undertakes, oversees, is responsible for etc. the restriction of human rights for the purposes of national security as outlined in the text I provided from Equality and Human Rights Commission. Again, I'm unsure if information held on this will be nil, sparse or voluminous so I'd appreciate assistance and advice if it happens to be too broad a request in that regard. Presumably, restrictions of human rights for the purposes of national security are not taken lightly, undertaken arbitrarily or entirely discretionary and there are documented bases from which such decisions may be made.

Lastly then, is the point around whether the restriction of human rights for the purposes of national security uses behavioural sciences generally and, more specifically, needs-motivated/needs-based theories of psychology such as the one I'd referenced before (Maslow's hierarchy of

needs but also anything else that may be used). The question then is around the extent to which documents or other such records are available that reflect this.

I hope that clarifies but do let me know if not.”

8. On 20 June 2024, the public authority provided a very brief response stating that no information was held.
9. On 29 June 2024, the complainant requested an internal review in the following terms:

“I am writing to request an internal review of Home Office's handling of my FOI request 'Restrictions of human rights and needs-based motivational theories / psychology'.

In particular, it would be useful for me to understand how it was concluded that no information that's in scope of this request is/was held by the Home Office and, moreover, whether there is any room for providing advice and assistance in relation to this request? For example, even if there is nothing specifically in relation to needs-based motivational theories/psychology, there may be something on the use of behavioural sciences more generally as it relates to any potential restrictions on human rights.”

10. On 19 July 2024, the public authority provided a very brief internal review response upholding the original decision but not providing any further explanation.

## **Scope of the case**

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11. The Commissioner wrote to the public authority on 5 November 2024 asking various questions about its application of section 1 of FOIA (information not held).
12. The public authority responded to the Commissioner on 13 December 2024 stating that the request had been reviewed and it was no longer relying on section 1 (information not held) but had changed its position to rely on section 12(1) (cost of compliance) to refuse the request due to its very broad nature.
13. Therefore, in this Decision Notice the Commissioner will consider section 12(1) of FOIA.

## Reasons for decision

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### Section 12 – cost of compliance

14. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
15. 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”)
16. 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 public authority is £600.
17. 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 24 hours for the public authority.
18. 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.
19. 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. 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.
20. 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.

21. 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.

### **The public authority's position**

22. The public authority explained to the Commissioner that:

“the Home Office does hold information regarding matters of national security and the Home Office undertakes assessments regarding human rights under the European Convention on Human Rights, including where qualified rights may be lawfully restricted when in accordance with the law and necessary in a democratic society in the interests of national security.

However, to confirm whether the Home Office holds information relating to the application of needs-motivated/needs-based theories of psychology in restricting human rights for the purposes of national security, and to establish whether Maslow, or a similar hierarchy, had been considered in all of those decisions would require every team in the Home Office to consider all of the actions and decisions it has taken that involved a consideration of human rights.”

23. The public authority explained that the nature of the request was such that it was “not possible to respond to this request within the appropriate limit or even assess the cost itself in any meaningful way.”
24. The public authority referred to two previous Decision Notices where similarly broad requests had been made and explained that this request would pose the same challenges in terms of providing an estimate and for searching for information in scope.<sup>1</sup>

### **The Commissioner's view**

25. The Commissioner accepts that in this case, due to the broad nature of the request, it is not possible to provide a reasonable estimate of the time it would take to comply with the request.

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<sup>1</sup> [ic-247733-h2v2.pdf](#)  
[ic-258247-n4z8.pdf](#)

26. It is the Commissioner's view that complying with the request would exceed the cost limit and so the public authority was entitled to rely on section 12(1) of FOIA to refuse the request.

## **Procedural matters**

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### **Section 16 – advice and assistance**

27. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
28. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In rare cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
29. In this case, the public authority informed the requester:

“I note that your internal review request asks for advice and assistance on how you may be able to re-word your request. Your internal review also appears to widen the parameters of your original request in that it now raises “behavioural sciences more generally”. It is difficult to suggest how you could narrow or refine your request. However, if you wish to submit a revised request we would be happy to consider it.”
30. The Commissioner is therefore satisfied that the public authority did comply with section 16 of FOIA when dealing with this request.

## **Right of appeal**

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31. 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)

32. 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.
33. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Michael Lea**  
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