

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2024

Public Authority: Cabinet Office
Address: 1 Horse Guards Road
London
SW1A 2HQ

Decision (including any steps ordered)

1. The complainant has requested information about timescales of security clearance applications. The Cabinet Office ("the CO") relied on section 12 of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that the CO was entitled to rely on section 12(1) of FOIA to refuse the request. The Commissioner also considers that the CO complied with its section 16 obligation to offer advice and assistance.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 2 March 2024, the complainant wrote to the public authority and requested information in the following terms:

"I'd like to request data which would allow analysis of timescales of security clearance applications. Ideally, please can the following information be provided:

A csv, with rows for all applications for which data is held. The columns of the csv would be the application date; the decision date; whether or not priority processing was requested; what level of security clearance the application was for (e.g. SC/DV); whether an interview was included as part of the application; whether the clearance was granted or denied. If there are different centres for

processing applications, which centre each application was processed in.

The objective is to allow analysis of timescales for the different levels of SC; the extent to which priority processing affects timescales; whether there is any difference depending on outcome; whether requiring an interview affects timescales; trends for timescales over time; whether some centres are faster than others.

Obviously all data should be anonymised.

If it is impossible to release some of these features, then please release a partial dataset with a reduced set of features - for example, without the column about whether SC was granted or denied, or without the column for which centre processed the application.

If it is impossible to release the dataset with a row for each application, then please release a dataset with whatever summary statistics can be provided relating to the above objectives: namely, timescales for the different levels of SC, the extent to which priority processing affects timescales, whether there is any difference depending on outcome, whether requiring an interview affects timescales, trends over time, and whether some centres are faster than others.

If there are other fields or other data which would be helpful for the above-stated aims, then please send those as well.

Having checked at [https://www.gov.uk/government/publications?departments\]=united-kingdom-securityvetting&publication_type=foi-releases](https://www.gov.uk/government/publications?departments]=united-kingdom-securityvetting&publication_type=foi-releases), there do not appear to be any previous FOI releases relating to these questions.

This data would be valuable to the public for several reasons:

- It would enable companies requesting SC to come to an informed decision as to whether they should pay for priority processing.
- It would help manage expectations around timescales, for both sponsors and applicants.
- It would allow companies to arrange applications to be made sufficiently in advance.

All these points would also indirectly benefit the Vetting team, as a significant number of enquiries about application progress and

timescales would be avoided if sponsors and applicants knew what to expect.

I am confident that the data requested is stored and easily transformed into the specified structure. If it is only available in a different structure, please send it however it is available. Electronic format is preferred. If the request needs to be refined, please clarify how this can be done."

5. On 3 April 2024, the public authority responded. It relied on section 12 of FOIA to refuse the request stating that

"Your request exceeds the cost limit because locating and retrieving some of the information that you have requested would need to be completely manually searched for as we are unable to perform a search for where the application was processed. If you wish, you may refine your request so that the cost of determining whether the Cabinet Office holds relevant information, locating, retrieving and extracting it would not exceed the appropriate limit.

The Cabinet Office may be able to provide some information if you reduce or refine your request to bring it under the cost of compliance under the limit. We may be able to provide you with information if you were to amend the request to remove the location where the application was processed and/or specify a date range for your request."

6. On 8 April 2024 the complainant requested an internal review and suggested a refinement to the original request stating:

"My request clearly states: "If it is impossible to release some of these features, then please release a partial dataset with a reduced set of features - for example, without the column about whether SC was granted or denied, or without the column for which centre processed the application." Thus, my original FOI request explicitly included the request that you provide the data without the column which you say is the sole issue. Why was this not done?

Resolution requested

A) Please provide the information requested, without the column for which centre processed the application. Please can this be done immediately.

I do not feel another 20 working days is appropriate, because the request for the data without processing centre was included in my original request of 2 March.

B) Please both account for, and justify, the length of time taken to comply with the request (see the guidance at <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/time-limits-for-compliance-under-the-freedom-of-information-act-section-10/#whatisthe>).”

7. On 26 June 2024, the CO provided its internal review. It upheld its original position.

Scope of the case

8. The complainant contacted the Commissioner on 1 July 2024 to complain about the way their request for information had been handled as they believed the CO responses were too vague and minimalist in content and he was concerned with the timeliness issues in responding to the internal review request.
9. The Commissioner notes that the complainant has made a number of follow up requests to the CO to refine the request which have been considered separately.
10. The Commissioner therefore considers the scope of this case to be to determine if CO has correctly cited section 12(1) of FOIA in response to this request only. The Commissioner has also considered whether the CO met its obligation to offer advice and assistance, under section 16 of FOIA.

Reasons for decision

Section 12 – cost of compliance

11. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
12. 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”).
13. 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 CO is £600.

14. 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.
15. 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.
16. 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.
17. 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.
18. 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

Would the cost of compliance exceed the appropriate limit?

19. The Commissioner asked the CO to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
20. The CO considers that the cost of complying with the request would significantly exceed the appropriate limit under FOIA. The CO explained that the UK National Security Vetting teams consider applications for

Counter Terrorist Check (CTC), Security Check (SC) and Developed Vetting (DV) checks from civil servants, contractors and specialist staff (such as those in the armed forces). It further explained that

- not all the information within the scope of the request is held centrally on the IT systems. It had identified significant numbers of files held online and also in paper format.
 - some information predates the creation of the United Kingdom Security Vetting's (UKSV) in 2017.
 - The retention period for most records is a number of years.
 - and information is not recorded in an easily extractable or reportable format.
21. In its detailed submissions to the Commissioner (some of which the CO asked the Commissioner not to repeat), the CO stated that as no specific process location or date range parameters were provided by the complainant, and there is no requirement for the CO to make assumptions or guesses as to the information required by the requestor that it had estimated the task would take significantly over 24 hours to locate, retrieve and extract the requested information. It would require an officer to examine and review records to initially identify the application centre where it was processed, and then extract and retrieve all relevant information
22. The CO therefore estimated that to initially search every case held on the IT systems alone and identify the processing location against staff lists (if recorded in every instance) would take approximately 5 minutes for each case. Given the vast number of records in scope, the request would cost an amount far in excess of the limit under FOIA.
23. This would not account for any adjustments required for duplication entries on staff lists which may require additional time (estimated at 2 minutes per case).
24. The CO also confirmed that it had conducted a sampling exercise public authority explained to the Commissioner that due to the knowledge and experience of vetting team members that it had had carried out a small sampling exercise of just 10 cases to estimate the time required to review each case as follows:

"A sampling exercise has been undertaken which factored in: time taken to access the case, check names in notes and activities on the National Security Vetting System (NSVS), as well as removing those that have not actively processed cases, e.g. dealing with complaints, Ministerial Correspondence or helpdesk queries. Ten cases were

accessed as part of the sampling exercise, this took a total of 34 minutes which equates to 3.4 minutes per case.

The sampling exercise showed that we would exceed the appropriate limit without cross referencing staff lists. Therefore, we did not undertake any further work to locate any staff lists. The time taken to cross-reference applications against staff lists would obviously increase the time taken and support the estimation of five minutes per case estimated at the FOI stage.”

The Commissioner's view

25. Having reviewed the CO's submissions, which detailed the number of records and time required to search for and retrieve information, it is clear that this request would exceed the cost limit by a significant amount.
26. Therefore, the Commissioner's decision is that the CO was correct to apply section 12(1) of the FOIA to the request. If one part of a request triggers the cost limit, then this applies to the entirety of the request.

Procedural matters

Section 16 – advice and assistance

27. Section 16(1) of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
28. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance, it will have complied with section 16(1).
29. In general, where section 12(1) is cited, a public authority should advise the requester as to how their request could be refined to bring it within the cost limit, albeit the Commissioner does recognise that where a request is far in excess of the limit, it may not always be possible to provide any useful advice.

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

30. In this case, the CO provided some advice and assistance to the complainant in its responses of 4 April 2024, by suggesting he consider refining the request by removal of the application process centre location "and/or" specifying a date range.
31. The Commissioner is satisfied that the CO did comply with section 16 of FOIA when dealing with this request.

Other matters

32. FOIA does not impose a statutory time within which internal reviews must be completed, albeit that the section 45 Code of Practice explains that such reviews should be completed within a reasonable timeframe². The Commissioner expects that most internal reviews should be completed within 20 working days, and even for more complicated requests, reviews should be completed within a total of 40 working days.²
33. In this case the Cabinet office took over 3 months to complete the internal review³.

² <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/request-handling-freedom-of-information/#internal>

Right of appeal

34. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

35. 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.
36. 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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