

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2025

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

Decision (including any steps ordered)

1. The complainant made two requests for information to the Cabinet Office relating to the respect and inclusion review, presentation slides and the protected characteristics of staff disciplined or dismissed. The Cabinet Office relied on section 12 of FOIA (cost of compliance) to refuse the request.
2. The Commissioner's decision is that the Cabinet Office was entitled to rely on section 12(1) of FOIA when refusing both requests. The Commissioner also finds that the Cabinet Office 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 3 June 2024, the complainant wrote to the Cabinet Office and requested information in the following terms:

"1. A copy of the Cabinet Office "Respect and Inclusion Review" and any subsequent documents setting out progress against the review.

2. A copy of the presentation slides referred to in the following article:
<https://www.independent.co.uk/news/uk/cabinet-office-mark-serwotka-civil-service-people-prime-minister-b1969205.html>

3. Since October 2010, the equality profile data for each year until the present (2024) for (a) the Civil Service and (b) the Cabinet Office for individuals subject to (a) disciplinarys and (b) dismissals for the following protected characteristics: (a) race and ethnicity; (b) gender; (c) disability.
4. Since October 2010 for each year until the present (2024) the data for Cabinet Office senior civil servants set out by (a) race and ethnicity; (b) gender; (c) disability."
5. On 1 July 2024, the Cabinet Office responded. It relied on section 12 of FOIA to refuse the request.
6. On 6 July 2024, the complainant made a further refined request to the Cabinet Office and requested information in the following terms:
 - " 1. A copy of the Cabinet Office "Respect and Inclusion Review" and any subsequent documents setting out progress against the review. If it is not possible to provide subsequent documents due to the £600 limit please provide the review document.
 2. A copy of the presentation slides referred to in the following article: <https://www.independent.co.uk/news/uk/cabinet-office-mark-serwotka-civil-service-people-prime-minister-b1969205.html>
 3. Between the period December 2021-December 2023, the equality profile data for each year for (a) the Civil Service and (b) the Cabinet Office for individuals subject to (a) disciplinarys and (b) dismissals for the following protected characteristics: (a) race and ethnicity; (b) gender; (c) disability.
 4. Between the period December 2021-December 2023 for each year the data for senior civil servants set out by (a) race and ethnicity; (b) gender; (c) disability."
7. On 6 August 2024, the Cabinet Office responded. It relied on section 12 of FOIA to refuse the request – a position it upheld following an internal review.

Scope of the case

8. The complainant contacted the Commissioner on 22 September 2024 to complain about the way their request for information had been handled. The complainant disagreed with the Cabinet Office's application of section 12 of FOIA.

9. The Commissioner considers the scope of this case to be to determine if the Cabinet Office has correctly cited section 12 when refusing both requests.

Reasons for decision

Section 12 – cost of compliance

10. The following analysis covers whether complying with the request would have exceeded the appropriate limit.
11. Section 12(1) of 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”)
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 Cabinet Office is £600.
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 24 hours for the Cabinet 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. 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.

The complainant's position

18. The complainant did not agree with the Cabinet Office's position that its systems did not align leaving data with protected characteristics. The complainant explained that they were aware that the "SOP" system does include information on protected characteristics. Meaning that the requested information could be provided with the cost limit, in their view.

The Cabinet Office's position

19. The Cabinet Office explained to the Commissioner that it estimated that responding to questions 3 and 4 of the request dated 3 June 2024, would exceed the cost limit. This was due to the fact that the request covered over 14 years' worth of data which would be held in multiple locations and require multiple teams to respond to the request.
20. The Cabinet Office provided two breakdowns for the work required in responding to question 3. These two breakdowns focused on disciplinaries and dismissals.

Disciplinaries

21. The Cabinet Office stated that any information relating to formal disciplinary action should be recorded on the Cabinet Office's people system which is referred to as "SOP". Whereas any information relating to informal disciplinary action, would be held at a local level between the relevant Line manager and member of staff.
22. In order to respond to the request, it would be required to identify all business units within the Cabinet Office over the past 14 years. This would include any business units which have since disbanded or moved through Machinery of Government transfers.

23. The Cabinet Office advised that such a task would involve reviewing 14 years worth of payroll data, identifying over 50 business units that have existed over time and reconcile business units which have had a name change over time, but whose staff had not substantial change. It estimated that this work would take approximately 6 hours.
24. The Cabinet Office would then be required to write to all line managers within the Cabinet Office over the past 14 years that had been involved in disciplinary action. It explained that this would require it to write to the current 2,300 line managers at the Cabinet Office and the historical line managers.
25. The Cabinet Office advised that assuming it took the current line managers 20 minutes to search their records, it estimated that this would take over 700 hours.
26. The Cabinet Office would then be required to take the information provided by line managers and cross reference this with information held on SOP to determine ethnicity, gender and disability.
27. It explained that for the years before 2020, this would involve consolidating information across three separate SOP reports into a single Excel file, which would take 1.5 hours per year.
28. For the years after 2020, this would involve consolidating the information across two SOP reports into the same Excel file, which would take 1 hour per year. The Excel file must then be filtered, cross referenced and quality assured. Which it estimated would take over 11 hours in total to do.
29. For the requested information for disciplinaries alone, the Cabinet Office concluded that the request would likely exceed 717 hours, which is much greater than the appropriate limit.
30. The Cabinet Office explained that when considering whether there was a quicker method to retrieve the requested information for disciplinaries, it did consider whether it would be reasonable to use one dataset to respond to the request, whilst acknowledging its limitations. However, it concluded that neither SOP nor the MoJ case management system alone could answer the request to a reasonable level, meaning the estimate provided has been based on the quickest method available to retrieve all of the requested information.

Dismissals

31. The Cabinet Office explained that dismissal data is contained within 14 separate annual flat file databases within Civil Service Statistics. An accessible template workbook would need to be created within the

existing Civil Service Statistics table structure in order to populate each of the three characteristic measures for Cabinet Office overall, Cabinet Office SCS level and Civil Service staff overall.

32. The workbook would therefore consist of nine accessible worksheet tables:
- 3x Cabinet Office dismissals by sex, race and disability,
 - 3x Civil Service dismissals by sex, race and disability,
 - 3x Cabinet Office SCS level only dismissals by sex, race and disability.
33. The Cabinet Office explained that it estimated this would take approximately 30 minutes. It would then need to produce the dismissal data for each year, by ethnicity for the Cabinet Office, Civil Service and Cabinet Office SCS. It advised that the following steps would be required for just one year, in this case 2010/11:
- a. Open the database for 2010/11
 - b. Open the specification for 2010/11
 - c. Using specification it would locate, check and confirm the correct ethnicity field and ethnicity codes for 2010/11
 - d. Using specification it would locate, check and confirm the correct leaving cause codes for 2010/11
 - e. Using specification it would locate, check and confirm the correct organisational codes applicable to Cabinet Office overall in 2010/11
 - f. Using specification it would locate, check and confirm the correct responsibility codes applicable to SCS level overall in 2010/11
 - g. Produce a cross tabulation of dismissals using the correct codes identified
 - h. Populate the table with the appropriate counts for each of the main standard ethnicity groups for Cabinet Office in 2010/11 and then repeat for the Cabinet Office SCS level only and then repeat for Civil Service overall
34. The Cabinet Office explained for the year 2010/11, it estimated the steps A to H would take approximately 10 minutes. For the request period, the steps would need to be repeated for each of the 14 years, which would take 2 hours and 20 minutes. The steps above would also

need to be replicated for disability and sex. Which takes the total time to approximately 7 hours.

35. It advised that the 9 tables would then need to be rounded and suppressed for disclosure and control purposes, which it estimated would take approximately 30 minutes.
36. As accredited official statistics, the lead statistician would need to quality assure (QA) the output. This would involve cross checking the outputs with existing published information for consistency, and a small number of spot checks would then be required, which would take approximately 1 hour.
37. As accredited official statistics, the output needs to be published and signed off through which would take approximately 1 hour.
38. The Cabinet Office explained that for the requested dismissals information from 2010/11-2023/24, it would take an estimated 10 hours in total to respond to this part of the request.
39. The Cabinet concluded that for dismissals, the estimate provided above was based upon the quickest method of gathering the requested information.

Refined request 6 July 2024

40. The Cabinet Office explained that although the complainant did make a refined request for information on 6 July 2024, it would still be required to contact the current 2,300 line managers. As previously outlined, it estimated that such a task would take 20 minutes per line manager, and therefore still take over 700 hours to locate and retrieve the requested information at question 3.
41. It explained that the information retrieved for questions 3 would still require the Cabinet Office to cross reference the data with the requested characteristics. It stated that with the reduced timeframe, this would only take approximately 4.5 hours.
42. For dismissals, the Cabinet Office explained that the data would only be contained within 3 separate annual flat file databases within Civil Service Statistics.
43. An accessible template workbook would still need to be created within the existing Civil Service Statistics table structure in order to populate each of the three characteristic measures for Cabinet Office overall, Cabinet Office SCS level and Civil Service staff overall.

44. The work book would also still require the nine accessible worksheet tables as outline in paragraph 34. The Cabinet Office confirmed that this would still take the previously estimated 30 minutes.
45. The Cabinet Office would then still be required to carry out the steps outlined in paragraph 35, but for only the requested 3 years. As the steps A to H would still take 10 minutes, this would take 30 minutes for the three years.
46. It confirmed this would still need to be replicated for disability and sex. Therefore the time taken to produce the unrounded version of the number of dismissals across all the requested permutations would take approximately 1.5 hours.
47. It explained that the nine tables would still need to be rounded and suppressed for disclosure control purposes which would still take an estimated 30 minutes.
48. As accredited official statistics, the lead statistician would still need to quality assure (QA) the output too. This would involve cross checking the outputs with existing published information for consistency, and a small number of spot checks would then be required, which would take approximately 30 minutes.
49. As accredited official statistics, the output would still need to be published and signed off through which would take approximately 1 hour. For data from 2020/21-2023/24, it would take an estimated total of 4 hour.
50. The Cabinet Office concluded that this takes the total estimated time for the requested information related to dismissals in 2010/11-2023/24, to 10 hours.

The Commissioner's view

51. The Commissioner is satisfied that complying with this request would exceed the appropriate limit.
52. The Cabinet Office has clearly outlined that in order to respond to the requests, it would be required to contact at least 2300 team leaders. The Commissioner notes that, even if the Cabinet Office was to half the estimated amount of time each team leader would need to locate and retrieve the requested information, it would still take over 300 hours to comply with just question 3 of both requests – which the Commissioner does not consider feasible.

53. Complying with the request would therefore exceed the cost limit and so the Cabinet Office was entitled to rely on section 12(1) of FOIA to refuse both of the request.

Procedural matters

Section 16 – advice and assistance

54. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.
55. 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.
56. In response to both requests, the Cabinet Office advised that a reduced scope may assist in a refined request. The Cabinet Office explained that a reduction in the number of years being requested may support in further information being provided.
57. Its final advice was that the complainant may wish to refine the request to the financial year and for dismissals only.
58. The Commissioner is therefore satisfied that the public authority did comply with section 16 of FOIA when dealing with this request.

Right of appeal

59. 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

60. 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.
61. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF