

Freedom of Information Act 2000 (FOIA)
Decision notice

Date: 11 June 2025

Public Authority: Department of Health and Social Care
Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant made a request for information relating to the email addresses for policy officials and the process around surrogacy of a child. The Department of Health and Social Care (the DHSC) initially cited section 40(2) to refuse the request but later changed its reliance to section 14(1) of FOIA to refuse the request as vexatious.
2. The Commissioner's decision is that the public authority was entitled to rely on section 14(1) of FOIA to refuse the request.
3. The Commissioner does not require any steps as a result of this decision.

Request and response

4. On 4 October 2024, the complainant wrote to the public authority to request information in the following terms:

"Please send all direct work email addresses for the Board, Governance Bodies and employees that deal with Surrogacy and the NHS.

All information regarding to Surrogacy including Government financial assistance, grants, help and advice, plus all information of the NHS Surrogacy."

5. The public authority responded to the request on 24 October 2024. It refused part one of the request citing section 40(2) and advised that the requester may wish to contact NHS England for part two of the request, as they may be the appropriate body regarding information around surrogacy, providing a link to the NHS England contact page.
6. It upheld this position at internal review on 13 November 2024, providing further guidance and insight regarding the complainant's previous requests in relation to their latest request.
7. Following correspondence with the Commissioner, the DHSC wrote to the complainant on 22 May 2025 to advise it had reconsidered the request and had concluded that section 14(1) was a more appropriate section of FOIA to apply in the circumstances of this case.

Reasons for decision

Section 14(1) – vexatious requests

8. The following analysis considers whether the request was vexatious.
9. 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.
10. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)¹ 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

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

cause a disproportionate or unjustified level of disruption, irritation or distress.

11. 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.
12. However, the Commissioner 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.
13. 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")². Although the case was subsequently appealed to the Court of Appeal, the UT's general guidance was supported, and established the Commissioner's approach.
14. 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.
15. 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).
16. 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).

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

17. The complainant has clearly attempted to find information with regard to the surrogacy process for a child, however, despite being previously advised that the DHSC does not hold information in scope of their request, they have pursued this through the FOIA process.
18. The complainant has not provided any arguments to back up their concerns simply stating in their complaint email "Please start your procedure, thank you."
19. In their correspondence to the Commissioner dated 12 December 2024, the complainant's email was sent to numerous parties and Cc'd to further non relevant parties. This shows a pattern of behaviour that either the complainant does not understand the FOIA process or has a blanket approach to attempting to obtain information with a scatter gun approach.
20. The DHSC explained that the pattern and repetitive nature of the complainant's requests (over 70 since 2023) could be considered disproportionate and burdensome.
19. The DHSC went on to further explain that: "In each of these responses the Department explained that surrogacy is not currently offered through the NHS and provided links to government guidance and details of the surrogacy process. From the emails we have been copied into, we can also see that NHSE has previously provided this information to (name redacted) on multiple occasions. That (name redacted) continues to request the same information despite being repeatedly told it does not exist suggests an inability to understand or engage with our responses. The outcome of the complaint's procedure found that in (name redacted) case, the Department had acted in line with its processes and obligations for handling FOI requests. DHSC advised he has the further option to follow up with the Parliamentary and Health Service Ombudsman via his MP if he remains dissatisfied. It would seem that (name redacted) primary complaint is with the answer he has been provided."
20. In their request for internal review, the complainant simply stated:

"Please Start the Internal Review - Public Information has been withheld."
21. In its internal review response, the DHSC clarified its response to part one of the request providing the central Department contact email address which is used for the purpose of public enquiries and can be used to pass on a message to any specific official as necessary. It went on to provide further information regarding part two of the request to clarify again that it does not hold information relevant to the request

and as previously advised, NHS England may hold further information relevant to the request in addition to what had already been provided.

22. The DHSC in its submissions to the Commissioner have shown that the request was burdensome, repetitive and lacked serious purpose when taken into account with previous requests. There seemed little further public value and could be considered as an improper use of the FOI procedures.
23. In relation to serious purpose and value, the DHSC informed the Commissioner that it has taken into consideration the information that is publicly available, and that it has directly provided to the complainant in their respective requests for information.
24. The DHSC further stated that it had complied with each of the complainant's previous requests and where relevant, provided information as requested.
25. The Commissioner notes that since June 2023, the complainant has submitted a large volume of requests to the DHSC, copying those requests into numerous other bodies. He considers that dealing with those requests has placed a significant burden on the DHSC and its resources. He believes that attempting to further comply with the request in this case would add to that burden. The Commissioner understands that the complainant has their own interest in this matter but having considered the context and repetitive nature of the requests and therefore, the ongoing burden, he agrees with the DHSC that the requests are an improper use of the legislation.
26. The DHSC was therefore entitled to rely on section 14(1) of FOIA to refuse the request in this case.

Right of appeal

27. 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

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

Deirdre Collins
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