

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 March 2025

Public Authority: Gangmasters and Labour Abuse Authority
Address: Loxley House
Station Street
Nottingham
NG2 3NG

Decision (including any steps ordered)

1. The complainant has requested information about trips made to Kyrgyzstan and Uzbekistan. The above public authority ("the public authority") relied on section 12 of FOIA (costs) to refuse part of the request and section 27 of FOIA (international relations) to withhold the information within the scope of the remaining part.
2. The Commissioner's decision is that section 27 of FOIA is not engaged. Part 2 of the request would have exceeded the appropriate limit and therefore the public authority was entitled to refuse it. However the public authority failed to comply with its obligation, under section 16 of FOIA, to provide reasonable advice and assistance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Disclose a copy of the Memorandum of Understanding. The public authority may make appropriate redactions to comply with its data protection obligations.
 - Either provide advice and assistance to help the complainant refine her request so that it falls within the cost limit or explain why the request cannot be meaningfully refined.
4. The public authority must take both these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 16 September 2024 the complainant requested information of the following description:
 1. "I would like to obtain the text of the memorandum between the GLAA and the Uzbek Agency of External Labour Migration, signed in May 2023, as described in the press release on your website, linked below.

<https://www.gla.gov.uk/whats-new/press-release-archive/30052023-glaa-signs-landmark-agreements-with-kyrgyzstan-and-uzbekistan>
 2. I would also like any notes and reports summarising the GLAA's fact finding mission in Uzbekistan and Kyrgyzstan which began on 21/05/2023, described in the aforementioned press release."
6. On 11 October 2024, the public authority responded. It refused to provide information within the scope of part 1 of the request, relying on section 27 (international relations) of FOIA in order to do so. It refused part 2 of the request and relied on section 12 of FOIA (costs) in order to do so.
7. The complainant requested an internal review on 15 October 2024. She challenged the use of section 27 of FOIA to withhold information within the scope of part 1 of the request. In respect of part 2, she refined her request in the following terms:

"Regarding [part 2 of the request], I would like access to any single document which contains a summary of the trip. It is not possible to specify the exact nature or location of the document as this is only known to those internally at the authority, but I would imagine some sort of overarching report was prepared for the wider authority in the wake of the fact-finding mission, by those who took part, so that its findings could be taken into account and actioned as appropriate. Whether this was a presentation and slide deck, or a written report, please could you disclose it to me?"
8. The public authority sent the outcome of its internal review on 21 October 2024. It upheld its original position in respect of part 1 of the request. It did not refer to either the original or revised version of part 2.

9. During the course of the investigation, the public authority explained that it considered section 12 would still apply to the refined version of part 2.

Reasons for decision

Section 27 – international relations

10. Section 27 of FOIA allows a public authority to withhold information whose disclosure would (or would be likely to) harm the UK's relations with another country or its interests abroad.
11. The public authority explained that disclosing the Memorandum of Understanding (MoU) **would** harm relations with Uzbekistan because:

“Uzbekistan does not publicly disclose the contents of their bilateral memorandum of understanding (MoU) documents. Therefore, while the content might not be problematic, publishing the document and such notes or reports regarding fact-finding missions **could** deter Uzbekistan from signing future agreements with the Gangmasters and Labour Abuse Authority, the Foreign, Commonwealth and Development Office and the Home Office. This **would** negatively prejudice relations between the UK and other state, as a result, and prevent future collaborative efforts to protect our goal of stopping modern slavery offences and labour exploitation across states.”
12. The public authority explained that disclosing the MoU **would** harm the UK's interests abroad because:

“Disclosing the GLAA's memorandum of understanding between the UK and Uzbekistan **could** harm the UK's efforts to support victims of modern slavery abroad. This is because the action itself of making the contents of these documents public **may** strain diplomatic relationships and reduce Uzbekistan's willingness to collaborate on future agreements. As a result, it **could** hinder the UK's ability to stop modern slavery offences and protect victims in Uzbekistan and other countries.”

The Commissioner's view

13. In the Commissioner's view, the public authority has not demonstrated that the exemption is engaged.
14. As well as identifying a potential harm that could be caused by disclosure, in order to engage this exemption, the public authority needs to demonstrate that the likelihood of harm meets one of two thresholds.

15. To demonstrate that the harm “would” occur, the public authority must demonstrate that it is more likely than not that the harm would occur. It is more difficult to meet this threshold but, if it can be reached, the public interest in maintaining the exemption will be higher.
16. To demonstrate that the harm “would be likely to” occur, the public authority doesn’t have to demonstrate that the chance of harm exceeds 50%, but it does still have to demonstrate that the chance is more than hypothetical.
17. The public authority has stated that the harms it has identified would occur. However, the words that the Commissioner has highlighted from its submission indicate a much lower degree of certainty. Suggesting that Uzbekistan “could” be deterred from signing future such agreements or that relations “may” be strained suggests to him that there is a least as much chance that these harms may not occur at all.
18. The Commissioner cannot accept that the higher threshold has been met. However, given the matters raised, he has instead considered whether the lower threshold of “would be likely to” cause harm is met instead.
19. The public authority has informed the Commissioner that it received advice from both the Home Office and the Foreign, Commonwealth and Development Office. He recognises that the latter body in particular has considerable expertise in international relations and that he should be slow to disregard its concerns (or concerns based on its advice) of the harm to diplomatic relations disclosure could cause. He is also aware, from previous cases, that other governments believe strongly in the confidentiality of diplomatic communications.
20. However, in this case the public authority has been unable to put forward sufficient evidence to support an assertion that Uzbekistan would be less likely to co-operate with the UK in future.
21. For example, the public authority has explained that Uzbekistan does not disclose copies of MoUs it has signed. That may be true, but it does not automatically mean that it would be offended if this one were disclosed. It is not clear which countries Uzbekistan has entered into MoUs with. If its other MoUs might have been signed with governments that prefer confidentiality in diplomatic relations, the lack of publication may be due to the wishes of the other government, not the Uzbek government.
22. Equally, the public authority has referred to the effect of disclosing **both** the MoU **and** its own internal reports of the trip. It is perfectly possible

that the Uzbek government might object to the latter, but not the former.

23. The Commissioner has also had regard to the contents of the MoU itself (which even the public authority notes "might not be problematic" if disclosed). Although there are sections covering co-operation, these are largely expressed in very general terms, with few specifics. In short, the Commissioner considers that what is in the document is more or less what a reasonable person might expect to be contained in a document of this nature.
24. The Commissioner does not consider that there is any information in the document that would be obviously embarrassing to the Uzbek government if disclosed.
25. Whilst the Commissioner recognises that some countries prefer diplomatic communication to remain confidential on principle, no evidence has been put forward to suggest that this is the case with Uzbekistan. Nor has any evidence been provided that demonstrates that the Uzbek government has previously reduced cooperation as a result of disclosure of similar information, or that it has indicated that it would do so if this information were disclosed.
26. In the Commissioner's view the public authority's arguments are speculative. They do not demonstrate a likelihood of harm that goes beyond hypothetical.
27. The Commissioner therefore considers that section 27 of FOIA is not engaged. The information must now be disclosed.

Section 12 – cost of compliance

28. This section covers whether the public authority was entitled to rely on section 12 of FOIA to refuse to respond to the refined version of part 2 of the request.
29. Section 12(2) of FOIA allows a public authority to refuse a request for information if the cost of determining whether the information is held would, on its own, exceed a certain limit.
30. That limit is set in law at £450 for the public authority or 18 hours of staff time.
31. The public authority does not have to make a precise calculation of the cost of complying with a request, but it must be able to produce an estimate that is reasonable and supported by evidence.

The public authority's position

32. During the course of his investigation, the Commissioner asked the public authority to provide him with an index of the documents it had identified as being relevant to either or both of the trips in question.
33. The public authority explained that this task alone had taken 20 hours and 24 minutes – and that it would be a necessary starting point in order to ensure it had identified all information relevant to the request (bearing in mind that more than one document might contain a summary).
34. Compiling the index had identified a total of 575 documents. The public authority argued that it would then need to “individually review each document for relevance.” It stated that this would require a further 2 minutes per file or a total of 19 hours and ten minutes.
35. The Commissioner challenged the public authority's figures and asked it to confirm that this really was the quickest available method. In particular, he challenged whether the public authority had carried out appropriate consultations with staff, to identify potentially relevant information, before designing its searches.
36. The public authority explained that a key staff member who would likely have authored (or at least been aware of the existence of) such documents had left the organisation – meaning they could no longer be consulted to identify where relevant information might be held.
37. The public authority accepted that some of its record management was “not uniform or consistent” which had made searching more difficult. It also noted that, as a small public authority, the search options available to it were limited and “very manual.” It was therefore satisfied that there was no quicker way of searching.

The Commissioner's view

38. The Commissioner considers that complying with the request would exceed the appropriate limit.
39. The Commissioner notes that the public authority's estimate appears to involve a significant amount of double counting. In compiling its index, the public authority must have made some assessment of whether the requested information did or did not fall within the scope of the request. It is not clear why an additional two minutes per file would be necessary.
40. Furthermore, even if the Commissioner were to accept that the documents identified in order to form an index did require further

review, given the specific nature of the request, it seems reasonable that some items (such as emails whose titles indicate they concern press coverage) could be disregarded out of hand – without requiring further review.

41. That being said, the Commissioner does accept that the public authority has put forward a figure in excess of 20 hours and that this is based on work that has actually been completed. It has therefore already exceeded the cost limit and any further time required to review documents only puts the total cost farther beyond that limit.
42. The Commissioner is satisfied that the cost of complying with this request exceeds the appropriate limit and therefore the public authority was entitled to rely on section 12(2) of FOIA to refuse it.
43. The Commissioner notes that this case has highlighted some deficiencies in the management of records. Had those records been managed more efficiently, the cost of complying with this request would have been lower. That being said, the Commissioner cannot say whether better records management would have enabled the request to have been answered within the cost limit. He is also required to assess the cost of searching those records as they are held, not as they would be held in a perfect world.

Procedural matters

Section 16 – advice and assistance

44. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making or wishing to make a request.
45. The section 45 FOIA code of practice states that, when refusing a request on cost grounds, a public authority should provide advice and assistance to the requester, to help them refine their request such that it would fall within the cost limit. If there is no way a request can be meaningfully refined, the public authority should state that.
46. In its original refusal notice, the public authority stated that:

“Under Section 16 obligations of the FOIA, to provide advice and assistance, we recommend reprioritising your request, this could be done, for example, specify the type of notes and reports required.”
47. The Commissioner considers that the statement above amounts to nothing more than telling the requester to refine their request. That is not reasonable advice and assistance.

48. The complainant specified, in her request, the type of notes or reports she wanted: notes or reports that summarised the trip. As she pointed out when seeking an internal review, it would be unreasonable to expect her to know exactly what information the public authority held or where it could be found.
49. The Commissioner is therefore satisfied that the public authority failed to comply with section 16 of FOIA because it failed to provide reasonable advice and assistance.
50. Given his findings in relation to the cost of complying with the request, it is not clear to the Commissioner whether even the refined version of the request could be further refined to bring it within the cost limit. Possibly the request could be refined within the limit by restricting it to just information provided to specific senior individuals within the public authority – especially now that the public authority has compiled an index. However, it is now for the public authority to give further thought to the matter and either provide reasonable advice or assistance or explain why the request cannot be meaningfully refined.

Section 17 – refusal notice

51. Section 17 of FOIA requires a public authority refusing a request to provide a refusal notice within 20 working days.
52. When the complainant refined her request on 15 October 2024, that became a brand new request and required a fresh refusal notice – even if the public authority still wished to rely on the same exemption to refuse it. No refusal notice had been issued at the date of this request.
53. The public authority therefore breached section 17 of FOIA

Other matters

54. The Commissioner would draw the public authority's attention to the records management [code of practice issued under section 46 of FOIA](#). A failure to comply with the code can lead to failures to comply with FOIA.
55. The Commissioner would recommend that the public authority review its records management policies to ensure that they are appropriate and that they are being followed consistently.

Right of appeal

56. 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

57. 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.
58. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF