

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

### **Decision notice**

**Date:** 21 March 2025

**Public Authority:** Department of Agriculture, Environment and Rural Affairs

**Address:** Jubilee House  
111 Ballykelly Road  
Ballykelly  
Limavady  
BT49 9HP

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

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1. The complainant requested information from the Department of Agriculture, Environment and Rural Affairs (DAERA) relating to conflicts of interest.
2. The Commissioner's decision is that DAERA is entitled to rely on section 12(1) (cost limit) of FOIA to refuse to provide the requested information. However, he finds that DAERA failed to provide reasonable advice and assistance and therefore did not meet its obligations under section 16(1) of FOIA.
3. The Commissioner requires DAERA to take the following steps to ensure compliance with the legislation.
  - DAERA must provide the complainant with advice and assistance to help them submit a request falling within the appropriate limit.
4. DAERA must take 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

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5. On 23 August 2024 the complainant wrote to DAERA and requested information in the following terms:

“Details of the conflicts declared to heads of branches by staff in their conflict of interest declarations for 2024.”

6. DAERA wrote to the complainant on 28 August 2024 to inform them that the requested information was likely to be personal data. It asked the complainant whether they were seeking any specific information and to clarify their request. On the same date, the complainant responded and provided the following information to clarify their request:

“I am requesting details of the declared conflicts, excluding the names of the staff involved.”

7. DAERA wrote to the complainant on 10 September 2024 to inform them that it does not hold a central conflicts of interest register. However, it provided the complainant with a link to where the Departmental Board register of interest could be located on its website. The complainant requested an internal review on 11 September 2024.
8. On 17 September 2024, DAERA provided the complainant with a substantive response to their request. It refused to provide the requested information citing section 12(1) (cost limit) of FOIA as its basis for doing so. It also stated that it was relying on section 21 (information reasonably accessible to the applicant by other means) to withhold information relating to the Departmental Boards register of interests.
9. Following receipt of DAERA’s substantive response to their request, the complainant reiterated their request for an internal review. DAERA provided the complainant with the outcome of its internal review on 30 October 2024 in which it maintained its position.

## Scope of the case

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10. The complainant contacted the Commissioner on 30 October 2024 to complain about the way their request for information had been handled. In their complaint to the Commissioner, they stated that they do not consider DAERA’s estimate of the time it would take to comply with their request to be reasonable.

11. Therefore, in this notice the Commissioner will cover whether DAERA is entitled to rely on section 12(1) of FOIA to refuse to provide the requested information.

## **Reasons for decision**

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### **Section 12(1) – cost of compliance exceeds the appropriate limit**

12. 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 cost limit.
13. The appropriate limit for the central government public authorities is £600. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 24 hours for DAERA.
14. 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. In accordance with the First-Tier Tribunal decision in the case of *Randall v IC & Medicines and Healthcare Products Regulatory Agency* EA/20017/00041, the Commissioner considers that any estimate must be “sensible, realistic and supported by cogent evidence”.
16. 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.

### **DAERA’s position**

17. In its submissions to the Commissioner, DAERA stated that information relating to conflicts of interest is not held centrally or collated statistically. It explained that the requested information is held within

individual conflict of interest forms that are completed annually by DAERA employees. These forms are held by individual business areas, line managers and heads of branch. Therefore, DAERA stated that in order to provide the requested information, it would need to manually review the conflicts of interest forms of all 3500 DAERA staff to identify the forms where a positive declaration has been made.

18. DAERA estimates that it would take approximately 1 minute to review each conflict of interest form. Therefore, it calculated that in total it would take 58.33 hours (3500 conflict of interest forms x 1 minute = 58.33 hours) to provide the requested information at a cost of £1458.33 (58.33 hours x 25 = 1458.33). DAERA considers its estimate to be extremely conservative and that it would likely take longer than the 1 minute estimated to review each conflict of interest form.
19. Furthermore, DAERA explained that whilst employees are required to review and update their conflict of interest forms annually, they are also required to complete a conflict of interest form whenever a change of circumstance occurs that may constitute a conflict of interest. This means that employees may submit more than one conflict of interest form a year which would have to be reviewed in order to provide the requested information.

### **The Commissioner's position**

20. The Commissioner notes that DAERA employees are required to complete a conflict of interest form annually and whenever a change or circumstance occurs that may constitute a conflict of interest. Therefore, he is satisfied that it would be necessary for DAERA to review conflict of interest forms relating to all 3500 DAERA employees in order to provide the requested information.
21. The Commissioner considers DAERA's estimate of 1 minute to review each conflict of interest form to be reasonable. Even if DAERA were to take only 30 seconds to review each form, the cost of complying with the request would still exceed the appropriate limit.
22. Therefore, the Commissioner's decision is that DAERA is entitled to rely on section 12(1) of FOIA to refuse to provide the requested information.

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

23. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45

code of practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).

24. The Commissioner notes that in its initial response to the request, DAERA advised the complainant that some information relating to conflicts of interest declared by its Departmental Board is available within the public domain on its website. However, he considers that DAERA should have also provided the complainant with suggestions on how to reduce the scope of their request so that it falls within the appropriate limit.
25. In its submissions to the Commissioner, DAERA stated that if the complainant was to request information relating to conflicts of interests declared by employees who joined DAERA in 2024, either through recruitment or transfer from another Northern Ireland civil service department, it is likely that the cost of providing that information would not exceed the appropriate limit. The Commissioner therefore considers that DAERA could have advised the complainant that they could refine the scope of their request by requesting this information.
26. The Commissioner's decision is that the Council did not provide the complainant with adequate advice and assistance and therefore breached section 16(1) of FOIA.

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

## **Right of appeal**

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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.

**Daniel Perry**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**