

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 July 2014

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

Decision (including any steps ordered)

1. The complainant has requested information about alleged external influences on government policy making. The Cabinet Office refused to comply with the request citing section 14(1) (Vexatious Request) as its basis for doing so. It upheld this position at internal review.
2. The Commissioner's decision is that the Cabinet Office is entitled to rely on section 14(1) as its basis for refusing to comply with the request.
3. No steps are required.

Request and response

4. On 3 December 2013, the complainant requested information of the following description from the Prime Minister's office:

"Please provide any documents on file which would or could indicate those who we know as our Government influenced, controlled, forced or coerced by another (eg but not limited to an entity or body) to implement policies or change.

Please provide the identity/identities of such others.

Please provide the countries where such others live.

Please provide documentation showing why our Government is allowing itself to be influenced, controlled, forced or coerced by another.

(Order to aid my request we see examples of what is going on in Britain today happening in other countries too - some are far ahead of us. Take NHS Privatisation, for instance. In Spain their version of the NHS is fastly becoming privatised.

I provide documentation showing how the EU is making NHS privatisation permanent: <http://freepdfhosting.com/a7adfab409.pdf>

We're seeing the transfer of monies (or values) to the private sector across the world.

There are global patterns in policy formation which indicate influence from outside various Governments which in turn formed the policies to their public.

We're seeing the destruction of our welfare state which tears down the very fabric of our humanity which is to help those in need of help in our own country.)”.

5. On 3 January 2014, the Cabinet Office responded. It refused to comply with the request citing section 14 as its basis for doing so. It also said it was willing to assist the complainant in reframing his request.
6. The complainant requested an internal review on 3 January 2014. The Cabinet Office sent him the outcome of its internal review on 12 February 2014. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 12 February 2014 to complain about the way his request for information had been handled. He disputed the Cabinet Office’s use of section 14 and commented:

“I note that they're not stating that they don't have the information on file which suggests to me that they do, but they're not comfortable providing it to me (the public). I think the public has a right to see this information though”.

8. The Commissioner has therefore looked at whether the Cabinet Office is entitled to rely on section 14(1) as a basis for refusing to comply with this request.

Reasons for decision

9. Section 1(1) states that "Any person making a request for information to a public authority is entitled –
 - a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - b) if that is the case, to have that information communicated to him."
10. This is the right of access to information which is at the heart of the Act.
11. However, section 14(1) states that: "Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious".
12. In other words, contrary to what the complainant has asserted, reliance on section 14(1) cannot be construed as a tacit confirmation that information described in a request is held. Where a public authority relies on section 14(1), it is asserting that it is not obliged to comply with any element of section 1(1) because the request is vexatious.
13. The term 'vexatious' is not defined in the legislation. In *Information Commissioner vs Devon County Council & Dransfield*¹ (the "Dransfield case"), the Upper Tribunal took the view that the ordinary dictionary definition of the word vexatious is only of limited use, because the question of whether a request is vexatious ultimately depends upon the circumstances surrounding that request. The Tribunal concluded that 'vexatious' could be defined as the "...manifestly unjustified, inappropriate or improper use of a formal procedure" (paragraph 27). The decision clearly establishes that the concepts of 'proportionality' and 'justification' are central to any consideration of whether a request is vexatious.
14. In the Dransfield case, the Upper Tribunal also found it instructive to assess the question of whether a request is truly vexatious by considering four broad issues: (1) the burden imposed by the request (on the public and its staff); (2) the motive of the requester; (3) the value or serious purpose of the request; and (4) harassment or distress of and to staff.
15. The Upper Tribunal did, however, also caution that these considerations were not meant to be exhaustive. Rather, it stressed the "importance of adopting a holistic and broad approach to the determination of whether

¹ UKUT 440 (AAC) (28 January 2013)

a request is vexatious or not, emphasising the attributes of manifest unreasonableness, irresponsibility and, especially where there is a previous course of dealings, the lack of proportionality that typically characterise vexatious requests" (paragraph 45).

16. The Commissioner has therefore considered whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress in relation to the serious purpose and value of the request. He considers there is in effect a balancing exercise to be undertaken, weighing the evidence of the request's impact on the authority against its purpose and value.
17. The Commissioner has identified a number of "indicators" which may be useful in identifying vexatious requests. These are set out in his published guidance on vexatious requests². The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.

The Cabinet Office's view

18. The Cabinet Office commented that the complainant, in effect, set out a particular point of view in his request – that the Government was subject to coercion by external influences - and sought information to confirm this view. Referring to the Commissioner's own guidance on the use of section 14, it argued that this position was intransigent and entrenched.
19. Quoting the request, it observed that the request presupposes "that the UK Government is 'influenced, controlled, forced or coerced by others'". It commented that the complainant could not genuinely have thought that the Cabinet Office would confirm or indulge this point of view. It therefore argued that the purpose of the request was questionable.
20. The Commissioner put it to the Cabinet Office that there may be a purpose or value to the request, for example, in terms of increasing the public's understanding of perceived changes to the NHS.
21. The Cabinet Office disagreed that this was the focus of the request and disagreed that the request could be read as furthering public

² http://www.ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/dealing-with-vexatious-requests.ashx

understanding of how the government takes decisions (whether in respect of the NHS or not). As such, it said that "any effort expended in dealing with the request would not be proportionate to its potential value in terms of public money".

22. It also provided details of previous requests made by the complainant (set out in Annex A to this Notice). It also set out the respective outcomes of each. It said that some of the requests appeared to have a clear focus and obvious purpose but others lacked such purpose. It commented that these others had an accusatory tone or seemed to be a so-called "fishing" exercise "to provide evidence to support the requester's world view". It said that the request under consideration in this case fell into the latter category.

Conclusion

23. As stated above, the Commissioner's approach is to assess whether the level of disruption, irritation or distress caused to the authority by the request is disproportionate or unjustified, when weighed against the purpose and value of the request. When making the assessment, he has also taken into account the context and history of the request, ie the wider circumstances surrounding the request.
24. The Commissioner accepts that there is a serious purpose to understanding what part lobbyists play in government policy making, particularly where that affects the NHS which is undergoing considerable change. However, he agrees with the Cabinet Office that this request is more focussed on reinforcing the complainant's world view than in obtaining useful information on this topic. As such, the relative merits of the complainant's motives are diminished. In effect, he undermines whatever serious purpose he might have had by couching his request in terms which are rhetorical and accusatory.
25. The Commissioner expects all public authorities to absorb a degree of criticism and rhetoric from requesters. However, the complainant's choice of language takes focus away from the serious purpose he may believe he has.
26. The Cabinet Office asked the Commissioner to consider the request in the context of a series of requests on a range of topics from the complainant. As can be seen by the Annex to this decision notice, the Cabinet Office has attempted to absorb criticism and rhetoric from the complainant and has attempted to respond to a number of his requests. It also directed him to the Commissioner's own recommendations for

framing a request.³ Unfortunately, the complainant does not appear to have taken these recommendations into account in framing this request.

27. In addition, the Commissioner agrees that in order to comply with this request, the Cabinet Office must, in effect, enter into a debate as to whether it holds information about whether the UK Government "is allowing itself to be influenced, controlled, forced or coerced" by external forces. While the complainant is perfectly entitled to hold the view that this is the case, the forum for discussing this is not the FOIA information access regime. FOIA provides access to recorded information. It is not a mechanism for challenging government to confirm a requester's world view.
28. The Commissioner has considered both the Council's arguments and the complainant's position regarding the purpose of the request. Taking into consideration the findings of the Upper Tribunal in Dransfield that a holistic and broad approach should be taken in respect of section 14(1), the Commissioner has decided that the Council was correct to find the request vexatious. Accordingly, the Commissioner finds that section 14(1) has been applied appropriately in this instance.

³ http://ico.org.uk/for_the_public/official_information

Right of appeal

29. 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: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

30. 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.
31. 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

Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

DRAFT - PROTECT

Annex A

Date of request	Text of request	Outcome
9 February 2013	<p>It is my understanding that most MPs - especially candidates for Prime Minister are made 'members' of a group known as Bilderberg. Since the taxes of UK people pay MPs their salaries in order to serve the UK public, we all would like to know:</p> <ol style="list-style-type: none"> 1. Why our MPs are members of Bilderberg 2. How the membership benefits the UK taxpayer 3. Why no official reports are produced concerning Bilderberg for the employers of MPs (the taxpayer) to see 	<p>No information held</p> <p>No request for internal review</p>
11 February 2013	<p>Please would you kindly let me know which department is responsible for chastising another government department if they have broken the law.</p> <p>I'll give a for instance to aid my query. In the application of the so called 'bedroom tax' I have discovered that the DWP is breaking the Disability Discrimination Act. If a person with spina bifida requires a hospital bed and special mattress and this makes it impossible for their partner to sleep in the same room then this is not under-occupancy in a two bedroomed flat. Therefore the DWP is in breach of the DDA in such a case.</p> <p>Background:</p> <p>So far I have contacted the Attorney General about this issue and he has provided me with a contact address for the DWP (which I might add also breaches the DDA, and other Acts [the complainant provided an example]). This info is purely for background though</p>	<p>No information held</p> <p>Decision upheld at internal review</p>

DRAFT - PROTECT

Date of request	Text of request	Outcome
	and my official enquiry is at the top.	
2 March 2013	<p>Question 1 (one): When a bill (or Act amendment) goes through parliament, what measures are in place to ensure it contains nothing which is in fact a breach of current legislation (Acts of parliament or Common Law already in place).</p> <p>Question 2 (two): If a member of the public finds that an Act of parliament contains a breach (or series of breaches) in the law then who should this be reported to?</p> <p>Question 3 (three): Once a breach in an Act of parliament is reported to that relevant department, how soon should an amendment to the Act be completed so that it is within the law?</p> <p>Question 3b (three bravo): If a breach has been found by the public and reported to the relevant department, is there a law which specifies the maximum amount of time to pass before the correction is made?</p> <p>Question 3c (three charlie): If a breach has been found by the public and reported to the relevant department, and there is a law which specifies the maximum amount of time to pass before the correction is made, then what is the penalty for breaching that length of time in amending the Act so that it complies with the rest of the law.</p>	<p>No information held</p> <p>Advised requester to contact the Ministry of Justice</p> <p>No request for internal review</p>
4 March 2013	I am most concerned about this government discussing and considering withdrawal from the European Convention on Human Rights.	<p>No information held</p> <p>Decision upheld at internal</p>

DRAFT - PROTECT

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	<p>As a comment from backbench Tory MP Nick de Bois which accompanies the article makes clear: "I t is imperative that we have legal decisions made here, not in Strasbourg. With this pledge, no longer will foreign criminals be able to take refuge in this country when they should be deported immediately after being released from prison." There are several problems with this position. The European Court of Human Rights handles only a very small number of the UK's human rights cases per year. Only a handful of those are about foreign criminals or immigration the full list is on page 16 of this document. http://www.justice.gov.uk/downloads/publications/policy/moj/responding-human-rights-judgments.pdf Indeed, the vast majority of human cases – including those involving immigration and extradition – are decided by our own courts. For proof, see the Mail on Sunday's own 'SCARY BLACK BOX OF SHAME', that is the cuttings of previous headlines about courts stopping removals. None of the cases mentioned is a European Court of Human Rights case. They all relate to decisions by UK courts. The Human Rights Act 1998 gave local UK courts the power to enforce most of the European Convention on Human Rights. The idea was to 'bring rights home' and stop our rights law being forged exclusively in Strasbourg. That is what has happened, meaning that UK judges are largely deciding UK human rights issues. And if the UK withdrew from the Strasbourg court? Domestic courts would still carry on applying human rights law and</p>	<p>review</p>

DRAFT - PROTECT

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	<p>taking account of (not following) decision of the European Court of Human Rights...It is important to understand is that domestic courts are not bound to follow the European Court of Human Rights now, but judges take the view that if there is a principle arising from a consistent line of cases in the Strasbourg court and there is no particular conflict with UK law, they will follow it.</p> <p>Withdrawal from the European Convention on Human Rights would also send a message to those countries with a record on human rights that the UK no longer takes the issue seriously.</p> <p>We cannot expect other countries to abide by their international obligations if we refuse to accept the judgments of the European court.</p> <p>If Britain did withdraw from the convention, it would join Belarus as the only other European country to do so: that is the same Belarus that was accused by William Hague of being guilty of "serious human rights abuses" when the Tories were in opposition.</p> <p>Let's not underestimate the importance of how fundamental the ECHR is considered to a modern democratic Europe. It's worth taking a look at the sheer elementary nature of the rights the ECHR protects.</p> <p>These are:</p> <ol style="list-style-type: none"> 1) The right to life. 2) The right not to be tortured or subjected to inhuman or degrading treatment or punishment. The right not to be enslaved. 3) The right to liberty and security of the person. 4) The right to a fair trial. 5) The right not to be retrospectively penalised. 	

DRAFT - PROTECT

Date of request	Text of request	Outcome
	<p>6) The right to respect for private and family life. 7) Freedom of thought, conscience and religion. Freedom of expression. 8) Freedom of assembly and association. 9) The right to marry. 10) The right not to be discriminated against in the enjoyment of those rights. 11) The right not to have our property taken away except in the public interest and with compensation. 12) The right of fair access to the country's educational system. 13) The right to free elections.</p> <p>I'm aware of the discussions to copy the parts you like into a bill of rights and I find that highly unsettling. (Please kindly take everything I've said above into account when answering my questions)</p> <p>Q1: Which numbered rights does the Conservative Party object to? Q2: Without the protection of the ECHR, what guarantee would the Conservative party offer that our country won't be turned into another Belarus? In answering this question I want you to be fully aware that leaving the ECHR opens the door for an 'anything goes' approach where the government make up their own rules to the detriment of our society.</p>	
1 April 2013	<p>I have asked the PM twice about this via contact number 10 Downing Street. After a year with no response whatsoever I feel it's time to ask it here in public for everyone to see. I asked the Prime Minister why it is that he is making so little effort to claw back the taxpayers money he used to bail out some of our</p>	<p>Invalid request</p> <p>Referred applicant to ICO guidance on how to make a valid</p>

DRAFT - PROTECT

Date of request	Text of request	Outcome
	Banks with. Thus after a year of no response I would like to put the same question as a freedom of information request. Why is this Government not clawing back taxpayers money used to bail out certain Banks?	request
16 August 2013	Please would you kindly provide the number of days holiday the Prime Minister is entitled to per year. Please provide the name of the official responsible for providing such entitlement and the law which governs it. Please provide the date range as to what constitutes a year in terms of the Prime Minister's and MPs year - ie does it start on 1st April until 31st March or does it work by calendar year? Would the Prime Minister forfeit unused holidays after that year has passed? Please provide the number of days holiday which a member of the cabinet office is entitled to per year. Would a cabinet member forfeit unused holidays after that year has passed? Who is responsible for keeping track of cabinet ministers holidays and other days of absence?	No information held Explained that the PM and Ministers are office holders and so do not have codified terms of employment Decision upheld at internal review
4 September 2013	Please would you kindly provide any information showing evidence that the Cabinet Office were aware there was about to be an attack somewhere in the USA before it happened back on 11th September 2001.	NCND [Refuse to provide confirmation or denial as to whether information is held] s.23(1) and s.24(1) [Exemptions cited] Decision upheld at internal

DRAFT - PROTECT

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		review
16 September 2013	<p>Question One: Please list the qualifications, experiences and background required to be a minister of each Government department I list below:</p> <ul style="list-style-type: none"> Attorney General's Office Cabinet Office Department for Business, Innovation and Skills Department for Communities and Local Government Department for Culture, Media and Sport Department for Education Department for Environment, Food and Rural Affairs Department for International Development Department for Transport Department for Work and Pensions Department of Energy and Climate Change Department of Health Foreign and Commonwealth Office Her Majesty's Treasury Home Office Ministry of Defence Ministry of Justice <p>Question Two: Who decides on which person is going to head up a department (I assume it's the Prime Minister but I wish to check) Some people will be interested that we currently have a department</p>	<p>Q1 No information held</p> <p>Provided explanation for the Lord Chancellor and the Attorney General</p> <p>Decision upheld at internal review</p>

DRAFT - PROTECT

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	<p>head for the Ministry of Justice who isn't a qualified lawyer (Chris Grayling). Whilst I am aware he will receive help from staff members, as other ministers do, I find it rather odd. The analogy being like a head teacher not being a qualified teacher - which would never happen.</p> <p>I'm keen to learn for instance if we have a head of ministry of defense who has had prior knowledge of the subject (but equally with all departments listed above).</p>	
18 September 2013	<p>Background of DNP which David Cameron promised to look into back in April 2013:</p> <p>The father of a medical student who died a year ago after taking a diet drug has told Sky News he is devastated that lives are still being lost despite a promise of action from the Prime Minister. Geoff Houston said three young people have been killed by the fat burner dinitrophenol, or DNP, since his daughter Sarah died last September at the age of 23.</p> <p>Only last week an inquest heard how Chris Mapletoft, 18, a talented rugby player died after taking DNP to enhance his physique.</p> <p>My FoI request: Please provide documents of what David Cameron has done to "look carefully" at the problem.</p> <p>In the meantime everyone should be aware this drug DNP has killed people and will continue to do so until it is withdrawn.</p>	<p>PMO [Prime Minister's Office] provided extract from a letter from the PM to an MP, and response provided links to published information from the Department of Health</p> <p>No request for internal review</p>
3 December 2013	[Request which is the subject of this decision notice]	<p>Refused – s.14(1)</p> <p>Decision upheld at internal review</p>