

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

### **Decision notice**

**Date:** 22 October 2019

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

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

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1. The complainant made 19 separate requests to the Crown Commercial Services, an executive agency of the Cabinet Office, for MISO data on a variety of subjects.
2. The Commissioner's decision is that the Cabinet Office breached section 17(3) of the FOIA by failing to complete its public interest test considerations within a reasonable timeframe.
3. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
  - Having confirmed that information is held within the scope of the request: either disclose the requested information or, issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. The Cabinet Office must take these steps within 35 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. Between 11 June 2019 and 14 June 2019, the complainant wrote to the Crown Commercial Services via the [whatdotheyknow.com](http://whatdotheyknow.com) website and made 19 separate requests for information concerning MISO data. The requests were made in the following terms:

*"I would like to make a request under the Freedom of Information Act to the Crown Commercial Service regarding the [scope of specific request].*

*Please could I access all the MISO submissions made under this framework in a machine readable format (preferably .csv). As an example, similar information to the data we require is already publicly available for G-Cloud here: <https://digitalmarketplace.blog.gov.uk/s....> For the avoidance of doubt, we'd like you to provide the following data fields as a minimum:*

*CustomerName  
SupplierName  
SMESstatus  
FinancialYear  
FinancialMonth  
EvidencedSpend  
Companies House Number of supplier (if available)*

*If you have additional data fields that can be sent, please provide them."*

6. The Cabinet Office initially acknowledged one of the requests on 11 June 2019, and assigned it their reference number FOI328103. It did not initially acknowledge the remaining 18 requests.
7. On 9 July 2019 the Cabinet Office wrote to the complainant under reference number FOI328103 to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations in respect of section 43 of the FOIA.
8. On 17 July 2019, the complainant wrote to the Cabinet Office requesting an internal review of the handling of each of the 18 unacknowledged requests.
9. Responding to one of those 18 requests in particular, the Cabinet Office declined to conduct the requested internal reviews and stated that the

requests were to be aggregated under the FOI328103 reference number.

10. The Cabinet Office wrote to the complainant again on 6 August 2019 stating that it would need to further extend the time taken to complete its public interest test considerations in respect of section 43.

## Scope of the case

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11. The complainant contacted the Commissioner on 22 August 2019 to complain about the delay in the Cabinet Office's consideration of the public interest test.
12. The Commissioner wrote to the Cabinet Office on 12 September 2019 asking it to, within 20 working days of receipt of her letter, either provide the requested information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA. Her correspondence was neither acknowledged nor responded to.
13. Despite this intervention, the complainant contacted the Commissioner again on 14 October 2019 stating that they had still not received a response from the Cabinet Office. The Commissioner therefore considers that a decision notice is appropriate in this instance.
14. The scope of this notice and the following analysis is to consider whether the Cabinet Office has met its obligations under section 17 of the FOIA.

## Reasons for decision

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15. Section 1(1) of the FOIA 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.*

16. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
17. Section 17(3) of the FOIA states that a public authority can have a "reasonable" extension of time to consider the balance of the public

interest, where a qualified exemption is engaged. The Commissioner considers a “reasonable” extension to be a maximum of 20 working days beyond the initial 20 working days afforded to public authorities under section 10(1). The Commissioner’s view is that any extension beyond a total of 40 working days should be granted only in exceptional circumstances.

18. Following the Commissioner’s intervention on 12 September 2019, the Cabinet Office made no representations as to why the circumstances of this case should be considered exceptional in respect of section 17(3). The Commissioner therefore has no grounds to consider the circumstances of this case exceptional, and so finds that the Cabinet Office has breached section 17(3) of the FOIA.
19. At paragraph 3 above the Cabinet Office is now required to finalise its public interest considerations and respond to the complainant.

### **Other matters**

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20. The Commissioner is mindful of the benefits, both to the public authority and to the requestor, of aggregating substantially similar requests for information. However, such aggregation must not delay the issuing of timely responses to requests, nor cause unjustified delays to the consideration of any relevant public interest tests.

## Right of appeal

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21. 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: 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)

22. 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.
23. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**