

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 December 2023

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

Decision (including any steps ordered)

1. The complainant made a request for emails exchanged within the Cabinet Office during two specified periods of late 2020 during the Covid 19 pandemic.
2. The Cabinet Office refused the request under section 14(1) of FOIA (vexatious requests).
3. The Commissioner's decision is that the request was vexatious, based on the oppressive burden that complying with the request would impose, and therefore the Cabinet Office was entitled to rely upon section 14(1) of FOIA to refuse it.
4. The Commissioner does not require any steps to be taken.

Background

5. The complainant made a short series of requests for information to the Cabinet Office. They were for emails exchanged within the Cabinet Office during specified periods of late 2020 during the Covid-19 pandemic. The complainant considered the emails might indicate a social gathering.
6. The final refined request that forms the substance of this decision notice is dated 9 February 2022. However, by way of background, the Commissioner has set out below a short summary of the requests in order to explain how the complainant refined their original request.

Request and response

7. On 13 December 2021, the complainant made the following request for information to the Cabinet Office:

"I'm writing to you under the Freedom of Information Act (2000) to ask that you disclose to me any emails sent internally within the Cabinet Office involving 3 or more people in the chain during the year 2020, on the dates 16,17,18 of November and December that included the words: "drink/s", "wine", "santa", "gathering", "christmas", or "party/ies"

8. On 8 February 2022, the Cabinet Office refused the request, relying on section 12 of FOIA (costs limit). The Cabinet Office advised the complainant to refine his request.
9. On 9 February 2022, the complainant submitted a refined request to the Cabinet Office as follows:

"I'd like to refine my search to Emails on these dates in which Simon Case, Alex Chisolm, or Heather Wheeler were tagged please. – ref: FOI2022/02658"

10. The Cabinet Office interpreted the phrase 'tagged' to mean instances where the above named persons sent or received emails.
11. The Cabinet Office responded to the refined request on 16 March 2022 and refused the request again, amending its position to rely on section 14(1) of FOIA (vexatious requests). The Cabinet Office argued that the request adopted a scattergun approach and that its purpose was a fishing expedition.
12. The complainant requested an internal review on 22 March 2022. The Cabinet Office provided its internal review on 25 May 2022, maintaining its original position.

Scope of the case

13. The complainant contacted the Commissioner on 27 May 2022 to complain about the way their request for information had been handled. They dispute that section 14 applies.
14. As is the practice in a case where a public authority has cited section 14, on 15 February 2023 the Commissioner asked the Cabinet Office to provide a more detailed explanation of its application of section 14 to the final refined request dated 9 February 2022.
15. On 26 July 2023, the Commissioner contacted the public authority and reminded it that its response was over-due. The submissions were provided to the Commissioner on 20 October 2023.
16. This notice covers whether the Cabinet Office correctly determined that the request was vexatious.

Reasons for Decision

Section 14(1) – vexatious requests

17. 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.
18. The word “vexatious” is not defined in FOIA. However, as the Commissioner’s 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 cause a disproportionate or unjustified level of disruption, irritation, or distress.
19. 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.
20. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream

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

services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

21. Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or which have a disproportionate impact on a public authority. The Commissioner's guidance on what may typify a vexatious request stresses, however, that it is always the request itself, and not the requestor, which is vexatious. However, a public authority may also consider the context of the request and the history of its relationship with the requester when this is relevant.
22. 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.
23. 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.
24. 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).
25. However, the UT emphasised that these four broad themes are not a checklist, and are not exhaustive. Rather, it stressed the:

"importance of adopting a holistic and broad approach to the determination of whether 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

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

proportionality that typically characterise vexatious requests” (paragraph 45).

26. Sometimes it will be obvious that a request is vexatious and other times it will not. In considering such borderline cases, the key is to weigh up any purpose and value that the request represents against any disruption, irritation, or distress that compliance with the request may cause the public authority. In doing this the Commissioner considers that a public authority should weigh the impact of the request on it and balance this against the purpose and value of the request. The UT stated in Dransfield that:

“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).

The Cabinet Office’s arguments

27. In its initial response to the request dated 16 March 2022, the Cabinet Office argued that the complainant’s request was made for the purpose of ‘fishing’ for information. It explained:

“In reaching this decision we have worked through the Information Commissioner’s guidance on vexatious requests which provides examples of a number of indicators of a request for information which could be considered vexatious for the purpose of section 14(1) of the Act. One such indicator is the scattergun approach which relates to requests made for the purpose of ‘fishing’ for information. The Commissioner continues at paragraph 81 that such requests are so called because the requester ‘casts their net widely in the hope that this will catch information that is noteworthy or otherwise useful to them.’

We consider that your request can be characterised as a ‘fishing expedition.’ You have asked for any emails sent or copied to Simon Case, Alex Chisolm, or Heather Wheeler across six days that include the words: “drink/s,” “wine”, “santa”, “gathering”, “Christmas”, or “party/ies”. Ministers and senior civil servants such as these individuals are engaged across a wide range of aspects of government and the emails exchanged on these dates will reflect this.”

28. The Cabinet Office went on in its internal review dated 25 May 2022 to further explain why it considered the request to be a fishing expedition:

“it is the search terms which you have provided which, in my view, give weight to the conclusion I have reached that your request is indeed a ‘fishing expedition.’ Your request for emails containing the terms ‘drink/s,’ ‘wine’, ‘gathering’, ‘christmas’, ‘party/ies’ and most

tellingly, 'santa' points to a randomness which substantiates the view that you are endeavouring to 'strike lucky' on (as the Commissioner puts it) 'the off chance [that you] may capture some interesting information.' The inclusion of such terms as part of your request may also, in my view, undermine any seriousness in purpose or value of that request.....

...It also calls into question the efficacy of using particular search terms on some email accounts in order to return emails on a specific subject. You should not be surprised that many members of staff will be likely to receive numerous emails during December containing the word 'Christmas' (and perhaps even 'Santa'). I observe further that a term such as 'gathering' will not necessarily be used in the context of a gathering of people and that 'drink' will not necessarily be used in the context of social drinking. I am therefore satisfied that the Cabinet Office was correct in reaching the view that your request was a 'fishing expedition'."

29. The Cabinet Office expanded on these points again in its submissions to the Commissioner. It considered the complainant's request was 'speculative.' It reiterated that the request could legitimately be regarded as a fishing expedition arguing that the complainant is not aware of what may be captured by the broadness of the request and hopes that something of interest may be 'caught' by it. It explained:

"We note in the Commissioner's guidance on section 14 the reference to:

'...the apparent tendency of some requesters, most notably journalists, to make random requests on the off chance they may capture some interesting information.'

We consider that the request is, in spite of its refinement from a previous request, still a clear example of a fishing expedition. In particular, we observe that the request was not refined in a way that would avoid indiscriminately bringing within scope correspondence without regard to its importance or relevance. We also take the view that the relevant period of the request is still of a length which is devised to enable the requester to cast a wide enough net for the capture of information and is not sufficiently focused to permit compliance on our part. This is reinforced by the extremely high number of emails that are caught by this search request."

30. In its internal review response, the Cabinet Office also considered whether the purpose or value of the request justified the impact on the Cabinet Office and its resources - and concluded that it did not. The Cabinet Office did acknowledge that the subject of the request involved a matter of wider public interest and objective value and that the

complainant's motive was genuine. However, it stated that disclosure of the information at the time of the request was premature - as it would undermine any investigations into social gatherings on government premises during Covid restrictions being undertaken at that time by both Sue Gray, the Privileges Committee and the Metropolitan Police.

31. In its submissions to the Commissioner the Cabinet Office went further and added that:

"We contend that the value or serious purpose in this request is ostensible only, and that the requester is motivated by seeking to re-open or re-investigate matters which have been the subject of extensive public record.

The former Second Permanent Secretary [Sue Gray] concluded her investigation and published her findings on 25 May 2022. What the former Second Permanent Secretary considered to be in the public interest for people to know about her investigation was published on 25 May 2022. In addition, the Metropolitan Police Service conducted an investigation which concluded on 19 May 2022 and included a public statement. Finally, the House of Commons Privileges Committee conducted an inquiry into the conduct of the former Prime Minister which included publication of evidence that overlaps to some extent with both of these investigations.

We consider that the matter of social gatherings that took place on Government premises have been thoroughly examined. We do not consider that the disclosure of the information the requester seeks would add anything further of interest beyond the matters considered by the former Second Permanent Secretary and the Privileges Committee"

32. In its submissions to the Commissioner, the Cabinet Office, for the first time, also provided information about the burden of the request on the Cabinet Office. First, it clarified that Heather Wheeler was not a government minister during the time period specified by the complainant³. Therefore the Cabinet Office explained that it only searched the inboxes of Simon Case and Alex Chisholm. The Cabinet Office then provided the Commissioner with details about a high number of emails (and attachments) falling in scope of the request.

³ <https://www.gov.uk/government/people/heather-wheeler>

33. As regards the burden of the request, the Cabinet Office said:

"we estimate that a conservative estimate of how long it would take to prepare these documents would be 10,000 minutes (166 hours), which we judge is manifestly burdensome..... This estimate also does not take into account the potentially broad volume of consultations with internal and external parties that might be required as part of the consideration of disclosure or the application of exemptions."

34. The Cabinet Office provided the Commissioner with details of the number of emails falling in scope. It said there were 938 emails in total (of which 0 were found in the inbox of Heather Wheeler, 633 in the inbox of Simon Case, and 305 in the inbox of Sir Alex Chisholm). In addition, the Cabinet Office estimated there are "well over a thousand attachments to these emails." In total, therefore, the Cabinet Office stated that the total number of files to be reviewed was 2000 individual files.

35. The Cabinet Office also explained in its submissions to the Commissioner that the widely drawn scope of the request would encompass trivial information which would be of limited use and would not contribute any further understanding to the apparent aim of the request. It said:

"the overwhelming majority of these results ... do not appear to relate to the 'spirit' of the requester's request, which seems to concern the events investigated by the former Second Permanent Secretary [Sue Gray] and Metropolitan Police Service. However, as set out below, given the specificity of the search parameters, they are nonetheless caught by the wording of the request. The sheer volume of irrelevant material returned by the searches (prescribed by the requester) contributes to our view that the request should be considered a 'fishing expedition...."

36. The Cabinet Office provided a summary of the types of topics covered in the emails caught by the complainant's search terms as follows:

- The term "christmas" appears to be predominantly related to policy decisions in the run up to Christmas. These are from a wide range of policy areas, including Covid 19 and EU transition. Many of these emails have attachments. There are also emails related to press/comms.
- The terms "party" and "parties" are used the most in policy development emails of which most have attached documents. There are also some press/comms emails.
- The terms "drink" and "drinks" are used in policy development, particularly EU transition, of which nearly all have attachments.

- The term "gathering" seems to be generally related to policy development, from a range of areas.
37. The Cabinet Office also explained to the Commissioner what FOIA exemptions it believed will apply to the information and which material within the emails is likely to engage the relevant exemption as follows. This included:
- section 27 (international relations)
 - section 35 (government policy)
 - section 36 (effective conduct of public affairs)
 - section 40 (personal information)
 - section 42 (legal professional privilege)
38. Consequently, the Cabinet Office stated that the requested information, were it to be disclosed, would be heavily redacted, reducing its value.
39. The Cabinet Office also set out that, given the complexity of the information, which in some cases comprised long policy documents or complex project management presentations, officials would have to examine each file individually to consider whether the information is in scope of the request and, if so, which exemptions (if any) might apply to that information.
40. The Cabinet Office estimated that it would take 5 minutes per file on average to review, consider and redact the information. Its "conservative estimate" of how long it would take to prepare these documents was 10,000 minutes (166 hours). It stressed that this estimate also did not take into account the potentially broad volume of consultations with internal and external parties that might be required as part of the consideration of disclosure or the application of exemptions.
41. The Cabinet Office concluded that the burden Cabinet Office officials would have imposed upon them in reading through the totality of correspondence would be a grossly oppressive one.

The complainant's view

42. The complainant is of the view that the Cabinet Office is withholding potentially damaging information about whether government officials broke the law during two specified periods of the Covid 19 pandemic. He explained to the Commissioner that this matter was of "deep public interest" and related to "heavily publicised news events surrounding partygate."

43. He said in his internal review request on 22 March 2022:

"The public interest in the reporting around this topic is extensively documented, and indeed as the matter is now the subject of an active investigation by the metropolitan police, and further, considering that government officials have already resigned and others are currently being questioned in relation to this matter, the assertion of "vexatious" holds no water. If anything, what this represents is a very obvious (and publicly searchable) effort on the part of this department to withhold information that, while very much a matter of public interest, the government wishes to avoid scrutiny over. I've been as accommodating as humanly possible, refining my request on multiple occasions. In hindsight, I could not have done more to adhere to guidelines as laid out by the act. This is far from a "scattergun" approach, and shows a clear willingness to refine my request as much as necessary."

The Commissioner's decision

44. In cases where a public authority is relying on section 14(1), it is for the public authority to demonstrate why it considers that a request is a disproportionate, manifestly unjustified, inappropriate, or improper use of FOIA. As previously discussed, there is a high bar for engaging section 14(1).

Value or serious purpose

45. When considering this issue, the UT in Dransfield asked itself, "Does the request have a value or serious purpose in terms of there being an objective public interest in the information sought?" (paragraph 38). The public interest can encompass a wide range of values and principles relating to what is in the best interests of society, including, but not limited to:

- holding public authorities to account for their performance;
- understanding their decisions;
- transparency; and
- ensuring justice.

46. In this instance the request focuses on an issue of high public and media concern about social gatherings on government premises during Covid restrictions. In addition, the request suggests there may have been a failure to observe the high standards expected of the government during the pandemic. The complainant believes the request is a legitimate pursuit to uncover this.

47. In its internal review response and submissions to the Commissioner, the Cabinet Office argued that the value and purpose of the request was diminished for three reasons. First, it stated that disclosure of the information at the time of the request was premature as it would undermine any investigations into social gatherings on government premises during Covid restrictions being undertaken at that time by both Sue Gray, the Metropolitan Police and the Privileges Committee. Second, it stated that the value or serious purpose in this request is 'ostensible only', and that the complainant was motivated by seeking to re-open or re-investigate matters which have been the subject of extensive public record. Third, it said it was not clear why the complainant narrowed the request the three individuals "as he did not supply a rationale, and so it is hard to see the public interest argument in favour of the narrowed request representing a compelling argument to fulfil the request."
48. The Commissioner is not persuaded that disclosure of the requested information was premature. Although Sue Gray and the Metropolitan Police had by the time of the complainant's refined request in February 2022 been tasked with investigating the social gatherings, the Commissioner considers that the complainant was seeking to understand what information the Cabinet Office held at a time when reports of the Sue Gray and Metropolitan Police investigations were not yet complete or the public domain. It is further noted that, at the time of the refined request, the Commissioner is aware that the House of Commons had not even asked the Privileges Committee to commence its investigation. This did not occur until 21 April 2022.
49. In addition, the Commissioner does not agree that the complainant was seeking to "re-open or re-investigate matters which have been the subject of extensive public record." At the time of his request in February 2022, neither Sue Gray, the Metropolitan Police nor the Privilege's Committee had concluded their investigations and published their findings or reports. It is important to state at this point that these public reports all significantly post-date the complainant's request, therefore the availability of this information is not relevant to the Commissioner's role in determining whether the request is vexatious.
50. In addition, the Commissioner also reiterates that under FOIA, a requester need not explain why they want the information or justify their request⁴. The Commissioner therefore is not persuaded by the

⁴ https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/consideration-of-the-applicant-s-identity-or-motives/#Circumstances_motives

Cabinet Office's argument that the request should be afforded less weight because the complainant did not explain his rationale for narrowing his request to the three particular individuals. This is especially the case given the Cabinet Office stated in its internal review that it accepted as genuine that the complainant's motive was to ascertain if Government officials broke the law.

51. The Commissioner therefore accepts that at the time the request was made it had a value or serious purpose and that it was not premature.
52. However, even if the request does have a value or serious purpose, there may be factors that reduce that value. One such factor is the burden the request places on the public authority.

Burden

53. From the evidence he has seen, the Commissioner is satisfied that the complainant has requested a substantial volume of information. He also accepts that the Cabinet Office has real concerns about potentially exempt information being captured by the request.
54. The Cabinet Office argued that "the requester has set out specific search terms which have resulted in [a] very high volume of material being returned." The Cabinet Office stated that in order to comply with the request, a considerable amount of time would need to be spent determining what exemptions apply to the information and weighing up the relevant public interest factors.
55. The Commissioner also accepts (and has done so in previous decision notices relating to similar requests for information⁵) that the keywords specified in the refined request can have multiple alternative meanings. Accordingly this means that manual checking of each email identified as potentially in scope would be required. For example, "parties" and "gatherings" can be used in the context of Christmas parties/gatherings or Christmas being used as a date deadline, being party to an agreement, parties to a contract, gathering parties together for a meeting, political parties, gathering information or gathering facts. "Drinks" could refer to the possibility of a virtual drink which was permitted. The Commissioner accepts that the complainant's specific

⁵ <https://ico.org.uk/media/action-weve-taken/decision-notices/2023/4026853/ic-179595-g5h8.pdf>

search terms therefore captured a wide range of potential records – all of which would need to be individually checked to see if the keywords were used in the context inferred in the complainant's refined request.

56. Overall, the Cabinet Office state that the amount of work that would be involved in dealing with the request would be 10,000 minutes (166 hours), which it judged to be "manifestly burdensome" and "grossly oppressive".
57. The Commissioner notes that the Cabinet Office has not carried out a detailed sampling exercise, which is disappointing and unsatisfactory. The Cabinet Office has not provided the Commissioner with sufficient details of a timed sampling exercise nor of the specific actions and steps that would need to be undertaken for each email to solidify the estimation of the five minutes per email needed to review the files. The Commissioner expects the estimates provided to him to be based on evidence and this usually involves the public authority conducting an adequate sampling exercise before responding to the Commissioner.
58. The Commissioner does not consider that the Cabinet Office's estimate of the five minutes required to assess each file to be reasonable or realistic.
59. The Commissioner considers that in many cases it will be immediately obvious from the email or attachment which exemption or exemptions applies. The Commissioner is therefore sceptical of the Cabinet Office's contention that for each email/attachment it would need to consult with internal and external parties to consider whether any exemptions apply (and then do the necessary redactions). While the Commissioner does accept that the Cabinet Office has valid concerns about exempt information within the emails, he notes that, Cabinet Office officials have significant expertise regarding the application of FOIA exemptions to requested information. Consequently, the Cabinet Office would be expected to be able to quickly recognise whether certain information would be exempt under a particular exemption(s) and so it would not be required to carry out exhaustive checks for each email to decide whether a particular exemption(s) applied. Nevertheless, the Commissioner recognises that not every entry in the emails would lend itself to such immediate exemption recognition due to the wide ranging responsibilities of Simon Case and Alex Chisolm.

60. The Commissioner notes that these points have recently been raised in other Cabinet Office decision notices⁶.
61. Notwithstanding the Commissioner's doubts and dissatisfaction with the potentially inflated estimates provided by the Cabinet Office in this case, he accepts that the actual burden which would be imposed would still be considerable. The Commissioner is unconvinced that that the burden of responding to this request could realistically be brought down to a reasonable size.
62. Whilst the limit laid down by The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 is not directly relevant to the application of section 14 FOIA, these give a clear indication of what Parliament considered to be a reasonable charge for staff time. The limit prescribed for central government authorities applying section 12 of FOIA is 24 hours, and this provides a useful starting point for assessing the burden of complying with a request, however it is important to note that the threshold is high for refusal of a request under section 14 based on the time needed for processing.
63. The Commissioner considers that there is a high threshold for refusing a request on such grounds and a public authority is most likely to have grounds for refusal when:
 - a. The requestor has asked for a substantial volume of information, **and**
 - b. The authority has real concerns about potentially exempt information, which it will be able to substantiate if asked to do so by the ICO, **and**
 - c. Any potentially exempt information cannot easily be isolated because it is scattered through the material.
64. On its face, the 166 hour estimate is grossly above the 24 hour limit. The volume of information indicated by the Cabinet Office that could fall within the request could potentially be within the threshold for refusing the request. The task of redacting such volume of information would not be straightforward but rather complex and time consuming. A significant portion of the material in scope of the request concerns policy decisions and development and therefore very likely be exempt on the grounds of

⁶ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4026809/ico-154554-p3n2.pdf>

maintaining the delivery of effective government in relation to the formulation or development of government policy. The scope of the request would encompass information which would not contribute any further understanding to the aim of the request about social gatherings.

65. Even if the Cabinet Office were able to review each entry in half the time (2.5 minutes on average), complying with the request would still take in excess of 83 hours of staff time. The burden which would be imposed upon the Cabinet Office to comply with the complainant's request would be an oppressive one.
66. In this case, from the evidence he has seen, the Commissioner is satisfied that the Cabinet Office has demonstrated that the amount of time to review and prepare the information for disclosure would impose a grossly oppressive burden.

Fishing expedition

67. The Commissioner's specific guidance for section 14(1) acknowledges that public authorities do express concerns about the apparent tendency of some requesters, most notably journalists, to use their FOIA rights where they have no idea what information, if any, will be caught by the request. He also acknowledges that these requests can appear to take a random approach and are often viewed by public authorities as 'fishing expeditions.'
68. Public authorities should however take care to differentiate between broad requests which rely on potluck to reveal something of interest and those where the requester is following a genuine line of inquiry.
69. The Commissioner has considered the arguments of both parties and, whilst he accepts that the complainant has used generic key words with multiple meanings, he considers that the request is for specific information.
70. The Commissioner's view is that the request has not been solely designed for 'fishing' for information without a clear idea of what might be revealed. In the Commissioner's opinion, the complainant appears to be genuinely trying to access a small amount of specific information about a controversial matter that had received considerable public and media attention.
71. The Commissioner notes that on 8 December 2021, the then Prime Minister requested that the Cabinet Secretary (Simon Case) carry out an investigation into allegations reported in the media relating to gatherings in No10 Downing Street during November and December 2020. The terms of reference for the investigation were published on 9

December 2021.⁷ These indicated that the investigation covered allegations made of a gathering in No10 Downing Street on 18 December 2020 which falls squarely within the scope of the complainant's request. The complainant made his first request on 13 December 2021. On 31 January 2022, the investigation was expanded to include events on 17 December 2021, again a date falling squarely within the scope of the complainant's refined request of 9 February 2023.

72. At the time the refined request was made in February 2022, the complainant also appears to have been attempting to uncover information on potential breaches of Covid restrictions well before the official investigations into the matter had been concluded. The Commissioner is aware that on 19 May 2022 the Metropolitan Police announced that they had concluded their investigation. On 25 May 2022, the final Sue Gray Report was published. The Privileges Committee did not conclude its investigation until 15 June 2023.
73. The Commissioner is not therefore persuaded by the Cabinet Office's arguments that the request is part of a 'fishing expedition.' The requester was following a genuine line of inquiry. However, in terms of size and work involved, the Cabinet Office has convinced the Commissioner that preparing this information for disclosure would impose a grossly oppressive burden.
74. In conclusion, the Commissioner has taken into account all of the above, and considered whether, on a holistic basis, he considers that the request is one that typically characterises a vexatious request - and he finds that it does.
75. The Commissioner considers that such is the weight of the burden which would be imposed upon the Cabinet Office in terms of the expenditure of time and resources, and distraction and diversion of the same, that this would be disproportionate to the legitimate purpose and value which would be served by responding to the request. Consequently, the Commissioner is satisfied that the Cabinet Office were entitled to rely on section 14(1) FOIA to refuse the complainant's request.
76. The Commissioner notes that when refusing a request as vexatious under section 14, unlike in section 12 (costs limit) refusals, public

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https://assets.publishing.service.gov.uk/media/61f7efd5d3bf7f78ddff94ec/Investigation_into_alleged_gatherings_on_government_premises_during_Covid_restrictions_-_Update.pdf

Reference: IC-173095-G2S2



authorities are not required to provide advice and assistance under section 16 of FOIA

Right of appeal

77. 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

78. 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.

79. 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

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