

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 March 2018

Public Authority: Department for Environment, Food & Rural Affairs (DEFRA)

Address: Nobel House
17 Smith Square
London
SW1P 3JR

Decision (including any steps ordered)

1. The complainant has requested information from the Animal and Plant Health Agency (APHA) about tuberculosis (TB) results in herds with and without moved-in cattle. As an executive agency of the Department for Environment, Food and Rural Affairs (DEFRA), APHA does not constitute a public authority for the purposes of FOIA and EIR and so this notice is issued to its parent Department. However, in this notice, the Commissioner will refer to the public authority as APHA.
2. APHA says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so. The Commissioner's decision is that APHA is not obliged to comply with the request under section 12(1) and is satisfied that APHA met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 5 September 2017 the complainant made a request for information under the FOIA, which was further clarified on 7 and 11 September 2017 as follows:

'QUANTITIES

The following 3 quantities will be provided for each year from 2003 to 2016 inclusive.

- *Cattle herds registered on SAM*
- *Disease restricted herds - during (Only OTF withdrawn)*
- *Incidents OTF withdrawn*

Definitions for each of these 3 quantities are as follows.

Definitions

Cattle herds registered on Sam

The number of herds registered as active on the APHA's SAM system.

Disease restricted herds - during (Only OTF withdrawn)

These are herds which were not officially TB-free due to OTF being withdrawn (i.e. herds under movement restrictions with OTF status withdrawn) at some point during the period shown, due to a TB incident. A herd with more than one incident in the period will be counted more than once.

Incidents OTF withdrawn

New herd incidents where OTF status was withdrawn from the herd due to the detection of lesions typical of TB during post-mortem examination of one or more test reactors or inconclusive reactors, or where samples from one or more reactor, inconclusive reactor or a slaughterhouse case produce positive culture results for Mycobacterium bovis (the causative bacterium of bovine TB).

CONDITIONS

The quantities above will be provided under the following conditions.

EITHER

numbers for the 3 quantities when holdings (CPH's), which have for 5 years prior to the report year,

- 1. existed in Devon,*
- 2. undergone annual whole herd tests,*
- 3. only ever consisted of one herd, and*
- 4. have had an animal tested which has been moved into the herd from another herd*

and numbers for the 3 quantities when holdings (CPH's), which have for 5 years prior to the report year,

- 1. existed in Devon,*
- 2. undergone annual whole herd tests,*
- 3. only ever consisted of one herd, and*
- 4. have **never** had an animal tested which has been moved into the herd from another herd*

OR

numbers for the 3 quantities when holdings (CPH's), which have for 5 years prior to the report year,

- 1. existed in Devon,*
- 2. undergone annual whole herd tests,*
- 3. only ever consisted of one herd, and*
- 4. have had animals moved into it*

and numbers for the 3 quantities when holdings (CPH's), which have for 5 years prior to the report year,

- 1. existed in Devon,*
- 2. undergone annual whole herd tests,*
- 3. only ever consisted of one herd, and*
- 4. have **not** had animals moved into it.'*

4. On 2 October 2017 APHA responded. It had previously informed the complainant in its clarification email (5 September) that certain information could be provided from the request (the 'quantities'):

'Cattle herds registered on SAM (APHA are able to provide the number of herds registered on SAM as of the last day of each year for 2011 – 2016)

'Disease restricted herds - during (Only OTF withdrawn) (APHA are able to provide the number of herds which had an OTFW TB incident during the year as these would also be disease restricted herds)

'Incidents OTF withdrawn (APHA are able to provide the number of OTFW incidents during the year for example the herd had an open OTFW incident at some point during that year)'

5. However, APHA stated that applying the above 4 'conditions' to the 'quantities' adds complexity to the request. It refused to provide the requested information citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £600.
6. APHA explained in some detail that
 - For the information requested between 2003 and 2010 it was established that we would need to spend a considerable amount of time investigating how and if herd data is accessible. We believe this data may be available in our old decommissioned system, VetNet, and this would require further investigation, manipulation and extraction to retrieve. With this in mind we have discounted pre-2011 data from our calculations.
 - The creation date for a herd is only readily available from 2011 onwards within our SAM database.
 - A representative sampling exercise has been carried out. This was for the data in 2016 and was not fully completed. The combined total time so far spent on producing the incomplete data for 2016 is 42 hours.
7. APHA explained that the request could not be processed without extracting and creating new data. Processing the request as currently drafted would put a disproportionate and unreasonable burden on resources.

8. APHA suggested that it may be able to comply with a new request for a narrower category of information. For example:
 - the number of herds registered on SAM as of the last day of each year for 2011 – 2016, or
 - the number of herds which had an OTFW TB incident during the year as these would also be disease restricted herds, or
 - the number of OTFW incidents during the year for example the herd had an open OTFW incident at some point during that year.
9. On 28 October 2017 the complainant requested an internal review.
10. APHA sent the outcome of its internal review on 22 November 2017 upholding its original position. It confirmed that the herd data prior to 2011 is only available in a decommissioned IT system: *'to review this data, establish whether it is available, reliable and extractable, would take an unknown number of work hours. It was therefore decided to eliminate this process from the investigation.'*
11. APHA also explained in some detail how the data team had undertaken a sample exercise to gather data from the SAM database for a single year and why the sample had not been completed: *'the sampling had already exceeded 24 hours. Continuing with the sampling would have required further diversion of resources and additional costs.'*

Scope of the case

12. On 29 November 2017, the complainant contacted the Information Commissioner to complain about the way the request for information had been handled.
13. The Commissioner's investigation has focussed on whether APHA correctly applied section 12 to the request. She has also considered whether APHA met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

14. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.

15. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 24 hours work in accordance with the appropriate limit of £600 set out above, which is the limit applicable to APHA.
16. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
17. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.
18. During the Commissioner's investigation the complainant argued that:

'It is my belief that the reasons stated by APHA to claim exemption under Section 12 are not valid. I believe this because, in the more detailed Internal Review... APHA appear to be referring to methods designed for managers wishing to create reports and not for technicians wishing to extract data. The methods are appropriate for producing reports when the user lacks basic knowledge of writing data extraction queries... I would expect technicians within APHA, who are responsible for extracting data, to have a basic knowledge of how to handle data for the purpose of extracting data.'

Would the cost of compliance exceed the appropriate limit?

19. As is the practice in a case such as this, the Commissioner asked APHA to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.

20. In its submission to the Commissioner APHA provided the following as a background:

- The team within APHA involved with this information are all Data Scientists.
- SAM is APHA's internal computer system that records customer and animal information. Within each customer record it shows names, addresses, animals on the premise and TB testing history. Significant volumes of detailed data are required to produce the summary level figures requested, which APHA do not routinely report on.
- APHA Data Scientists develop and maintain the semantic reporting layer (Business Objects Universe)
- Extraction of the data is then performed via a tool called Webi - essentially a wizard that creates the vast pieces of SQL code required to extract the data.
- Due to the complexity of the data APHA hold it is necessary to extract different 'splices' of information, i.e. multiple different datasets (reports), and merge the datasets back together in Access.

21. In response to the Commissioner's questions APHA provided an explanation on how the data for the request would be created. There are four steps:

- A. Retrieve data for all herds located in Devon for 5 years where a Whole Herd Test has taken place and there is only one County Parish Holding number (CPH)/herd on the holding, and there has been a movement on to that holding
- B. As above, but where no movement on to the holding has taken place
- C. Using the same criteria as (A) but identifying the specific animals that have moved on to the holding that have had a TB Skin Test
- D. As (C) but excluding data of animals that have moved on to the holding and have NOT had a TB skin test

22. The APHA team worked to produce 1 year of data (2016) as an informed estimate for the complainant and the Commissioner. Reports needed to be run numerous times to cope with the large quantities of data.

23. APHA provided a detailed estimate to the complainant during the internal review and provided a very detailed excel spreadsheet to the

Commissioner on the progress of the sampling for one year of data. The Commissioner has summarised this below:

| Reason | Hours |
|--|-------------|
| Initial planning and design (2 Staff x 6 hours) | 12 |
| Create new County stats report | 1 |
| Movement data extract design and development (Report failures due to size of datasets – running time not included) | 4 |
| Re- scheduling and testing of report outputs | 1.25 |
| Discussions between data owners and FOIA team-> further decisions and developments | 3.5 |
| 2016 data for identifying herds with movements – extract and manipulate – STEP A | 3.5 |
| 2016 data for identifying herds without movements – extract and manipulate – STEP B | 2 |
| Movement data from another team | 2.5 |
| Animal testing data – extraction of 2 months – failures – identifying and correcting errors | 2.75 3.5 |
| Running single month 30 mins x 12 months for 2016 (STEP C and D) | 6 |
| TOTAL | 42 hours |

24. APHA also explained the difficulties caused by the large volumes of data in the reports when attempting to produce the estimate for 2016 data.
25. APHA successfully completed Steps A and B for 2016. APHA was not able to complete Steps C and D for 2016 data. *'The volumes of data involved*

in animal level test data mean we have had to create an extract for each month (500 thousand to 1 million animals returned)... Whilst completing steps (C) and (D) we are also experiencing issues with our Business Objects system as it struggles to process the data, this has caused system latency which ultimately impacted on our customers and APHA's ability to run Business Objects reports during these periods'.

26. In summary, APHA state that the total time spent to date to design and run reports for partial 2016 data is 42 hours and the estimated time to complete 2011 to 2016 data is over 100 hours. The total time to complete 2003 to 2010 data has not been calculated.
27. Given the very specific and complex information requested, the volume of records in APHA's databases, the use of data scientists and the detailed estimated times to provide one year of data, the Commissioner accepts that APHA would take more than the 24 hour limit to respond to the request as phrased. She is therefore satisfied that APHA is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

28. Section 16(1) of the 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 (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).
29. The Commissioner notes that APHA advised the complainant that the request was too broad and that data prior to 2010 was located in a decommissioned IT system. In an effort to provide assistance, APHA clearly stated 3 areas of what data was possible for 2011 – 2016. Therefore, the Commissioner is satisfied that APHA complied with section 16.

¹ <http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-section45-code-ofpractice.pdf>

Right of appeal

30. If 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@hmcts.gsi.gov.uk

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

31. 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.
32. 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF