

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

### **Decision notice**

**Date:** 4 August 2015

**Public Authority:** Government Legal Department

**Address:** 1 Kemble Street  
London  
WC2B 4TS

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

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1. The complainant has requested information from the Government Legal Department. The Commissioner's decision is that the complainant has requested his own personal data and that the Government Legal Department should have neither confirmed nor denied holding any information by virtue of section 40(5)(a) of the FOIA. He does not require any steps to be taken.

#### **Request and response**

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2. On 14 November 2014 the complainant wrote to the Treasury Solicitor's Department (now the Government Legal Department ("GLD") and referred to as such throughout this notice for ease of reference) and requested information in the following terms:
  - All internal emails between the 1/3/14 and 14 November, from (name redacted from the original) or his office where he mentioned the word (name redacted from the original)
3. The GLD responded on 8 December 2014 and stated that it would not meet his request as it considered it to be vexatious (section 14 FOIA).
4. Following an internal review the GLD wrote to the complainant on 22 January 2015 and stated that it upheld its original decision.

## Scope of the case

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5. The complainant contacted the Commissioner on 11 February 2015 to complain about the way his request for information had been handled.

## Reasons for decision

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6. Under the FOIA, any individual can make a request for access to any information held by a public authority. However, an individual's own personal data is exempt from the FOIA's access right. It should instead be dealt with according to subject access rights established under the Data Protection Act 1998 (DPA).
7. Section 40(1) of the FOIA provides that:  
  
"Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject."
8. Section 40(5) of the FOIA provides that:  
  
"The duty to confirm or deny –  
  
(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1)."

## Is the requested information the complainant's personal data?

9. The Commissioner noted that the complainant appeared to be requesting all emails which contained his surname. He therefore asked the complainant to confirm this was indeed the case. The complainant, on 26 March 2015, confirmed that it was. The Commissioner takes this confirmation that this request, although being cited as made under the terms of the FOIA, is clearly made in relation to him.
10. Considering the previous paragraph the Commissioner is satisfied that confirming whether information falling within the scope of the request is held would confirm the existence or otherwise of information in connection with the complainant. As such, the Commissioner considers that the request focuses on information which, if held, would be the personal data of the complainant as it relates specifically to him.
11. All such information would accordingly be exempt from disclosure under section 40(1) and therefore, under section 40(5)(a), the GLD was not required to confirm or deny whether it held the requested information.

The Commissioner has therefore not considered the application of section 14(1).

### **Other matters**

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12. It should be noted that requests for assessment made to the Commissioner under the DPA in respect of whether it is likely that a data controller has complied with the provisions of that legislation are not dealt with by way of a decision notice, as the provisions of the DPA are different to those of the FOIA. If the complainant is dissatisfied with any assessment made then there is no access to the First-tier Tribunal; any external redress should be made by him directly to the courts.

## Right of appeal

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13. 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 123 4504

Fax: 0780 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

14. 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.
15. 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 .....**

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