

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

### **Decision notice**

**Date:** 8 December 2022

**Public Authority:** Ministry of Defence

**Address:** Whitehall  
London SW1A 2HB

### **Decision**

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1. The complainant requested a copy of the Secretary of State for Defence's ministerial diaries. The Ministry of Defence (MOD) refused the request under section 14(1) of the FOIA (vexatious requests).
  2. The Commissioner's decision is that the MOD is entitled to rely on section 14(1) (vexatious request) of the FOIA to refuse to provide the requested information. He does not require the MOD to take any steps.
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## **Request and response**

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3. On 31 March 2021 the complainant made the following request for information to the Ministry of Defence (MOD):  
  
    "From 1<sup>st</sup> December 2019 to the day this request is processed, please provide a copy of Secretary of State for Defence Ben Wallace's ministerial diaries."
4. On 14 May 2021 the complainant submitted a refined version of their request which limited the timeframe of information requested to the period between 1 December 2019 to 1 June 2020.
5. The MOD's final position is that complying with the request would impose a significant burden and that it considered that section 14(1) (vexatious request) was applicable..

## **Reasons for decision**

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6. This reasoning covers whether the MOD is entitled to rely on section 14(1) of the FOIA to refuse to provide the requested information.

### **Section 14(1) - vexatious**

7. Section 14(1) of FOIA allows a public authority to refuse to comply with a request if it is considered to be vexatious.
8. In the Commissioner's view, 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. This will usually involve weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. This should be judged as objectively as possible; in other words, would a reasonable person think that the purpose and value are enough to justify the impact on the public authority.
9. In particular, the Commissioner accepts that there may be cases where a request could be considered to be vexatious because the amount of time required to review and prepare the information for disclosure would place a grossly oppressive burden on the public authority. This is the position adopted by the MOD in this case.

10. In reaching a decision in this case the Commissioner has considered the submissions provided by the MOD and the arguments presented by the complainant. He has also referred to recent decision notices he has issued in relation to similarly constructed requests submitted by the same complainant<sup>1</sup>.
11. Having considered the relevant facts the Commissioner is satisfied that the request, the MOD's position, the complainant's arguments, the scope of information captured and the burden that compliance would impose are sufficiently similar to the scenarios addressed in the recent decision notices cited in paragraph 10. He, therefore, transposes the arguments and conclusions reached in these decision notices to this decision notice.
12. In light of the above, the Commissioner's decision is that the request is vexatious. Therefore, the MOD is entitled to rely on section 14(1) of the FOIA to refuse to comply with the request. The Commissioner requires no further action to be taken by the MOD in relation to the request.

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<sup>1</sup> See, for example, the following: <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022384/ic-129067-f2l3.pdf>, <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022827/ic-148740-m6d1.pdf>, <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022381/ic-128331-r7h1.pdf>, <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4022383/ic-129066-d1g1.pdf>

## 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 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)

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 .....**

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**