

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

### **Decision notice**

**Date:** 1 June 2023

**Public Authority:** HM Treasury  
**Address:** 1 Horse Guards Road  
SW1A 2HQ

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

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1. The complainant submitted a meta-request to HM Treasury ("HMT") for all internal and external correspondence and communications about the handling of a previous information request. HMT refused the request under section 14(1) (vexatious requests) of FOIA.
2. The Commissioner's decision is that the request was vexatious and therefore HMT was entitled to rely upon section 14(1) of FOIA.
3. The Commissioner does not require any steps to be taken as a result of this decision.

## **Request and response**

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4. On 29 July 2022, the complainant made the following request for information:

“Please disclose all metadata relating to FOI2022/03927 and IR2022/12820, which must include (but is not limited to) all recorded communications of any type, in any form (including smartphone exchanges), which provides evidence of internal discussions within HM Treasury, and any decisions which were taken with regard to this Freedom of Information request and the associated internal review.”
5. On 19 August 2022 HMT responded citing section 14(1) of FOIA explaining this was due to the disproportionate effort that would be required to comply with the request, suggesting a narrowing of the request may enable it to deal with a future request.
6. On 3 October 2022, the complainant sent a response requesting an internal review. After further correspondence between the complainant and HMT, HMT’s internal review was produced on 21 November 2022 this upheld its original response citing section 14(1) of FOIA.

## **Scope of the Commissioner’s investigation**

7. The complainant contacted the Commissioner on 20 February 2023 to complain about the way their request for information had been handled.
8. In correspondence to the Commissioner outlining their grounds of complaint, the complainant explained their reasoning behind making the request in the following terms:

“I asked for this metadata request for a number of reasons. I wanted to see the internal communications inside HM Treasury which contributed to the decisions it took on FOI2022/03927 and IR2022/12820, which I believe I am fully entitled to do. This FOI request and internal review were subjected to excessive delays and the use of exemptions which I did not consider were justified. It also applied redactions which I consider as not being valid under the terms of the FOI Act. These redactions are totally unconnected to the section 40(2) examples, all of which I accept as valid due to third-party data privacy rules. As well as these refusals, there were also requests for email attachments which were not provided. I raised all these points

and put these arguments to HM Treasury in my request for an internal review, but all it has done is label them as vexatious and aggressive. I would request that the Commissioner investigates the evidence of HM Treasury's own attitude and behaviour, which I would describe as unacceptable and dismissive on every possible count."

9. The focus of the Commissioner's investigation is to consider whether HMT were entitled to rely on section 14(1) of FOIA to refuse the meta-request. It is not part of his remit to consider whether a public authority has demonstrated an appropriate attitude.
10. The Commissioner has provided a description of what metadata is in an annex at the end of this decision notice.

## **Reasons for decision**

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### **Section 14(1) – vexatious requests**

11. 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.
12. The word "vexatious" is not defined in FOIA. However, as the Commissioner's updated guidance on section 14(1)<sup>1</sup> 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.
13. 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.
14. However, the ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream

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<sup>1</sup> <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.

15. In regard to the request HMT has said:

"We note that the FOI request FOI2022/03927 resulted in a substantial release of information to you and the only redactions made under the FOI Act were under s40(2) – third party personal data. We therefore consider that there is little value or purpose in your request for the metadata related to this FOI request and its subsequent internal review that would justify the disruption to the department.

We also wish to flag to you the ICO's guidance that states, 'A request or series of requests, which makes unsubstantiated allegations of criminal behaviour or wrongdoing can be vexatious.' We consider that your repeated allegations that HM Treasury has mishandled your FOI requests with a view to concealing information is not only incorrect but vexatious and aggressive."

16. In their response to the Commissioners pre-allocation letter HMT said:

"The subject of the meta request is a culmination of a number of refined requests made by the requester. We have worked with the requester to help move from an initial wide request to a position where information could be released. We have released considerable amounts of information during the course of the ICO investigations. We believe the requester is seeking the metadata as they believe more information is held. The decision notice is clear and found on the balance of probabilities no further information is held in scope of the request and that HM Treasury has conducted appropriate and diligent searches. The metadata is over 100 administrative emails between two departments - for example, allocation emails from information rights to policy hubs asking for the allocation to an individual: auto email reminders. Anodyne communications that would take considerable time to prepare and release."

17. In the circumstances of this case, and on the basis of the evidence provided, the Commissioner is satisfied that HMT was entitled to rely on Section 14(1) of the FOIA to refuse the request as vexatious.

18. The complainant's request is a meta-request seeking information about how a previous request had been handled. The Commissioner's

guidance<sup>2</sup> is clear that meta-requests are not inherently vexatious, however may be refused as such if a public authority can evidence that to comply with the request would pose a disproportionate level of disruption.

19. The Commissioner notes the complainant stated "I wanted to see the internal communications inside HM Treasury which contributed to the decisions it took on FOI2022/03927 and IR2022/12820, which I believe I am fully entitled to do". However, a request for metadata does not disclose the information contained in any such documents as explained in the attached annex.
20. As HMT has stated in its response to the Commissioner, complying with the request would require the involvement of separate small service areas and a diversion of officer resources away from core duties, placing a significant burden on HMT resources. The Commissioner is therefore satisfied that section 14(1) is engaged for this request.
21. Finally, it is the Commissioner's position that there is limited public interest in the type of information the complainant is seeking, within the given context. It is reasonably transparent that the information request has been made in relation to matters affecting the requester only.

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<sup>2</sup> [Requests about previous information requests \(meta requests\) | ICO](#)

## Right of appeal

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22. 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](mailto:grc@justice.gov.uk)

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

23. 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.
24. 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 .....**

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

## **Annex**

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Documents created electronically contain information about the life of the document.

Details are recorded and stored with a file, such as:

- the author;
- dates;
- editing history;
- size;
- file paths;
- security settings; and
- any email routing history.

This information is known as “metadata” and is accessed via the file properties.

Metadata is recorded for the business purposes of the public authority and can be used in records management. The [code of practice](#) on the management of records issued under section 46 of FOIA promotes the recording of metadata at paragraph 2.3.3. Metadata is held for the purposes of FOIA.

In addition, when producing an electronic document, information on its formatting is automatically recorded. This includes information such as the fonts used, headings and other style settings. As with metadata, this is information held for the purposes of FOIA.

If a requester asks for this type of information specifically, it must be disclosed – unless an exemption allows it to be withheld.