

Freedom of Information Act 2000

Decision notice

Date: 18 February 2013

Public Authority: Department for International Development
Address: 1 Palace Street
London
SW1E 5HF

Decision (including any steps ordered)

1. The complainant has requested information from the Department for International Development (DfID) regarding legislation that governs their actions and details about their published accounts. DfID refused the requests on the grounds that they were vexatious under section 14 of the Freedom of Information Act 2000 (the Act).
2. The Commissioner's decision is that both requests are vexatious and that DfID was entitled to refuse them. No further action is required.

Request and response

3. On 28 June 2012 and 21 July 2012 the complainant requested information from DfID. The wording of these requests can be found in [Appendix A](#).
4. DfID responded on 26 July 2012. It stated that it was aggregating the requests under section 12(4) of the Act and that the aggregated requests were considered vexatious under section 14 of the Act.
5. Following an internal review the DfID wrote to the complainant on 10 August 2012. It upheld the original decision.

Scope of the case

6. The complainant contacted the Commissioner on 10 August 2012 to complain about the way his request for information had been handled.

7. The Commissioner considers the scope of the case to be whether the requests are vexatious and can be refused under section 14 of the Act.

Reasons for decision

8. Section 14 of the Act states that:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious."

9. The Commissioner has well established guidance on vexatious requests¹. His approach is generally to consider the argument and evidence that the public authority is able to provide in response to the following questions:
 - Could the request fairly be seen as obsessive?
 - Is the request harassing the authority or causing distress to staff?
 - Would complying with the request impose a significant burden in terms of expense and distraction?
 - Is the request designed to cause disruption or annoyance?
 - Does the request lack any serious purpose or value?
10. However, the Commissioner is aware that the Information Tribunal has previously commented that "an approach which tests the request by simply checking how many of the five "boxes" are "ticked" is not appropriate. It is necessary to look at all the surrounding facts and apply them to the question whether the request is vexatious"². In accordance with this the Commissioner, where appropriate, will also consider the context and history between the complainant and DfID.

Could the request fairly be seen as obsessive?

11. DfID explained to the Commissioner that the complainant had begun correspondence in October 2011. This correspondence raised the

1

http://www.ico.gov.uk/for_organisations/freedom_of_information/guide/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/vexatious_and_repeated_requests.ashx

2

<http://www.informationtribunal.gov.uk/DBFiles/Decision/i725/20120329%20Decision%20EA20110222.pdf> ICO v IPCC (EA/2011/0222)

complainant's objections to the amount of money spent by the UK government on foreign aid, and stated that the money could be better spent on domestic projects to alleviate unemployment and poverty. DfID issued a response that outlined the benefits of UK foreign aid spending.

12. DfID also explained that the complainant then enquired how he could apply for funds to spend in his local area of Fife. DfID's response explained that providing financial assistance to the UK was beyond their remit. In an email dated 8 November 2011 DfID stated:

"As explained in our earlier letter, the Coalition Government view is that there is a strong moral argument for keeping our aid commitment and a strong practical one too as aid is in our own interests.

We appreciate that you do not agree with this view and will not be entering into further correspondence with you on this issue."

13. The complainant has continued his correspondence unabated and has sent in large volumes of emails about his objections to the government's overseas aid spending. DfID has supplied the Commissioner with 84 emails along similar lines from the week commencing 29 March 2012 to the date of the request, all of which have a similar theme to the initial correspondence.
14. The Commissioner considers that the two requests being considered in this decision are an extension of the complainant's previous correspondence to DfID. The request of 28 June 2012 concerns the complainant's wish to apply for funds from DfID to develop his local area, despite this clearly being beyond DfID's remit. The request of 21 July 2012 continues the complainant's wish to have DfID justify the size of their budget, which is mentioned numerous times in the emails sent by the complainant to DfID.
15. The complainant was made aware of DfID's position on both these issues long before the requests were made. The Commissioner's view is that the complainant is using the Act in order to receive a response from DfID on matters where they had previously stated they would no longer engage with him. As such, the Commissioner's decision in this regard is that the requests can be considered obsessive as they both relate to the substantial volume of emails the complainant has already sent in. This gives considerable weight to DfID's refusal of the requests on the grounds that they were vexatious.

Is the request harassing the authority or causing distress to staff?

16. When considering this question the Commissioner is concerned with the effect of the request on any reasonable public authority, rather than what the complainant's intention was.
17. Taken in isolation, the requests do not appear to be harassing. Whilst the request of 21 July 2012 does contain superfluous remarks where he invites DfID to comment on the accounts, they cannot be taken as sufficient to refuse a request as vexatious.
18. However, the Commissioner has made it clear that his assessment of requests deemed vexatious by public authorities also considers the context in which they were made in order to gain a more thorough understanding of the relationship between the two parties. As previously mentioned, the complainant has submitted a number of emails to DfID. The Commissioner has provided a selection of the tone evident in these in [Appendix B](#).
19. The email of 24 March 2012 was a complaint made to the Equality and Human Rights Commission, as the complainant felt he was being discriminated on the grounds of race. The Commissioner considers this is linked to the request of 28 June 2012, regarding whether there is legislation in place to stop a UK citizen obtaining funds from DfID for domestic projects, as is demonstrated by an email from the complainant to his MP dated 24 March 2012:

"I have still not received any detail from DFID regarding any legislation that prohibits me from accessing International Development Aid funds to assist Levenmouth. As I consider that I am being discriminated against, by the lack of a response, this can only be because of my nationality"
20. It is clear that DfID provides financial assistance exclusively to foreign countries. The Commissioner's view is that DfID has already explained that the reason it does not invest in the UK is due to its remit and not due to legislation. It has also been shown that DfID stated it was not going to carry on with correspondence on this subject with the complainant. The Commissioner therefore considers the complainant's allegation to be unfounded and represents unjustified harassment of DfID's staff.
21. The Commissioner has reviewed the tone and language displayed in these emails and considers that it would be harassing to a reasonable individual working at DfID. The complainant has been openly hostile to members of DfID's staff and has displayed a lack of objectivity in the haranguing style of his correspondence.

22. A pertinent example is the complainant's unfounded suggestion that members of DfID's staff are responsible for the death of British service personnel in Afghanistan. The Commissioner considers this to be offensive and would be likely to cause distress to a reasonable individual.
23. The Commissioner considers that a clear connection can be made between the subject matter within the complainant's correspondence and the request of 21 July 2012. Both the correspondence and the request concern the complainant's view that DfID is wasting money that could be better spent within the UK.
24. Whilst the Commissioner does not consider the requests themselves to be harassing in their tone and language, he does consider both requests to be part of the complainant's undertaking to challenge DfID. This has clearly been demonstrated as both harassing and offensive to any reasonable individual. In conjunction with the obsessive nature shown the Commissioner considers that this adds further weight to support DfID's decision to refuse the requests as vexatious.

Would complying with the request impose a significant burden in terms of expense and distraction?

25. The Commissioner has established that the requests under consideration in this decision can be linked to the abundant volume of correspondence sent by the complainant. The Commissioner notes that the complainant sent most of the correspondence after DfID refused to engage with him further.
26. As the requests are viewed as a continuation of the complainant's previous correspondence, and given the excessive volume of correspondence the complainant sends to DfID, the Commissioner consider that it would impose a significant burden if DfID was to provide a response.
27. In its submissions to the Commissioner, DfID argued that if it had not refused the requests as vexatious then the complainant would have sent all future correspondence as requests for information. Given the volume of correspondence that the complainant sends, this would represent a significant burden to DfID.
28. The Commissioner considers this argument to be reasonable. To comply with the request would invite similar correspondence, which is likely to be in a similar vein. Therefore, the Commissioner's view is that for DfID to comply with this would impose a significant burden.

Is the request designed to cause disruption or annoyance?

29. The Commissioner does not doubt that the complainant is sincere in his convictions. The complainant has shown deep reservations over the work that DfID undertakes and wants to challenge the view that the department's work is beneficial to the UK.
30. Whilst it is clear that he wishes to stop DfID providing financial assistance to foreign countries the Commissioner is not convinced that the complainant's motive was to use his requests in order to cause disruption or annoyance to DfID.
31. The Commissioner's conclusion is that this consideration does not support DfID's arguments for refusing the requests. However, this factor cannot be considered great enough in isolation to force DfID to rescind their refusal of the requests.

Does the request lack any serious purpose or value?

32. When considering whether these requests lacked serious purpose or value the Commissioner decided to consider each request in turn rather than together.
33. The Commissioner's view is that the request of 28 June 2012 can be said to lack value. DfID has made it clear that it does not invest in UK projects because it is beyond its remit. Indeed, DfID directed the complainant to other public bodies who would be involved in such projects.
34. The Commissioner has not established whether the complainant has simply misunderstood that DfID will not invest in UK projects, or whether he wishes to have confirmation that there is no legal basis preventing DfID from investing in UK projects. Regardless, the fact remains that such measures are clearly beyond its remit and would be inappropriate given the clear purpose of DfID. As such the Commissioner considers that the request of 28 June 2012 can be said to lack a serious purpose.
35. For the request of 21 July 2012, the Commissioner's view is that this is a continuation of the complainant's previous correspondence. Comments 3, 5 and the summary paragraph show that the purpose of this request is to criticise DfID and continue the theme of his previous correspondence. Therefore, although the request for the business case can - in isolation - reasonably be considered as an entirely legitimate request, in the context of this case the Commissioner is satisfied that this request can be said to lack a serious purpose.

36. In conclusion, the Commissioner considers that both requests can be said to lack serious purpose. This adds further weight to DfID's reasons for refusing the requests as vexatious.

Summary

37. In order to reach his decision the Commissioner has taken a broad view of each of the different considerations that have been explained in this notice.
38. The Commissioner's view is that both requests can be seen to be part of an ongoing campaign against DfID. This campaign has no discernible sense of objectivity and is both obsessive and harassing to DfID. Both requests can be said to lack significant value and to represent a significant burden to DfID's resources. As such, the Commissioner's decision is that both requests can be refused on the grounds that they are vexatious.

Other Matters

39. In DfID's refusal notice of 26 July 2012 it stated that the requests were being aggregated under section 12(4) of the Act before they were refused under section 14 of the Act.
40. This is not permitted under the terms of the Act. Aggregating under section 12(4) is only permitted when considering whether the cost of complying with the requests would exceed the appropriate limit established under the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
41. Nevertheless, the Commissioner does not object to a public authority refusing to two requests on the grounds they are vexatious within the same refusal notice. However, for this to be appropriate the requests and the context in which they are made would need to be reasonably similar, as was the case here.

Right of appeal

42. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

43. 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.
44. 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 – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
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Wilmslow
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SK9 5AF

Appendix A

Request of 28 June 2012:

"By way of this E Mail I am making a formal Freedom of Information Request that you provide the specific legislation that prohibits any UK citizen or UK organisation from accessing the £13 Billion funds allocated to the Department of International Development, to assist in resolving UK issues such as unemployment"

Request of 21 July 2012:

"I am submitting a freedom of information request to have released the business case for £13+ Billion of UK foreign aid I note from the annual 2011-12 report (the xls version) the following

Common Core Tables (unaudited)

In line with Her Majesty's Treasury (HMT) Public Expenditure System (PES) guidance on the preparation of 2011-12 Annual Report and Accounts, DIFD has produced the following common core tables. Tables 1, 3 and 4 covers the required period 2007-08 to 2014-15. Table 2 is required to cover 2011-12 alone. These tables summarise key performance information against prior years, budget and forecast information.

The figures up to and including 2011-12 show the actual resource outturn for that year, and for 2012-13 onwards indicative planning figures are presented. These figures were informed by the spending review 2010 and revisions to provisional allocations made within the Autumn Statement. These provisional plans may be subject to revision, as DFID strategy is continually reviewed to ensure aid is used most effectively.

DFID's available programme resources are allocated to country or regional specific aid programmes, international aid programmes, or other programmes in the annual resource round. This establishes an aid framework allocation, approved by the Secretary of State, which provides divisions within DFID with a firm budget for the current year. For full details on what the outturn for 2011-12 represents and how this was delivered reference should be made to other narrative within the Annual Report and Accounts.

An Excel version of these tables, as required by HM Treasury regulations, is included on DFID external website.³

As these are unaudited can you advise the margin of error on these tables and as these are part of your submission to the public, regarding how their money is spent, can you advise why the terms of reference given to the auditors, is not expanded from the legal requirements to include such important KPI's

2. Perhaps you could explain the huge and sudden increase in Intangibles during 2009-10 (Table 3 Row22 from £614 to £24,602

3. It is worthy noting that on Table 5 the FTEE have reduced in the fiscal year ended 31 March 2012 by 5 or 0.3%-compare that to civil service reductions, armed service reductions, emergency service reductions to name a few and this department is immune to the cuts being suffered elsewhere. Is there a rational explanation as to why the "pain is not shared" or is it just positive discrimination?

4. Page 33 of the 236 page report notes that the measure of outcome has been redefined to likelihood and a score of 75% is regarded as being a positive outcome are these scores based on milestones or are these judgement calls? Note 1.35 on the accounts state that the index has fluctuated marginally over the year, but selectively compares Q1 against prior year as this shows a marked improvement, at this point only, of a few percentage points

5. Note 16, 17 on the accounts records £22,926,000 almost £23 Million written off. That is 176% of the inflated £13+ Billion and we are throwing more money at it

6. Notes 24 & 25 are interesting in that the contingent liabilities can hardly be deemed to be small, including those where there is little hope of transfer of economic benefit

7. Noted £1.6 Million net capital expenditure was not achieved and accounts qualified as such

³Commissioner's formatting. Source:
<http://www.dfid.gov.uk/Documents/publications1/departamental-report/2012/Core-tables-2011-2012.xls>

Interesting enough, the list of countries being assisted excluded the UK, where there are many deprived areas, who would be delighted and would welcome the actual pound notes presented in these accounts"

Appendix B

24 March 2012

"I am now making a formal request that you advise me of the procedure to access the DFID funds to benefit Levenmouth or provide the legislation details that prevents a UK National or organisation from accessing, what is UK Taxpayers money, to assist deprived areas.

In the event that you consistently refuse to answer, what is a simple question, or advise of your complaints procedure then I intend to make a complaint that, as being a naturally born UK National, I am being discriminated against on the grounds of race."

Week commencing 29 March 2012

"Sadly a grenadier guard has fallen in Afghanistan as a result of your foreign aid policy. Enjoy your weekend as one family is devastated and changed forever"

"Sadly your foreign aid policy has wrecked the lives of a further service family as a soldier injured in Afghanistan has sadly passed in the hospital in Birmingham. This immeasurable cost is not acceptable by the majority of the public"

"Now that you have transferred both jobs and money to India-perhaps you can find 100 positions there for the 100 staff that are to be made redundant at Plymouth university. Then we can educate the foreigners on how to spend my money"

"Nero Fiddled while Rome Burned. Certainly true if your name is William Hague MP, and I cannot believe what I am reading today-that bosses should work harder and stop complaining about the economy-has he missed out the word "Indian" before bosses"

"In science each and every action has an opposite reaction-so perhaps it is time for the Indians to give us aid and jobs instead of taking these given that 200 jobs are at risk in Firstbus and at Dalkeith and Musselburgh"

7 April 2012 (to the Equality and Human Rights Commission, DfID copied in)

"I wish to make a formal complaint that the Department of International Development have refused to answer a question that I asked on the basis of my nationality. I am confident that if a foreign national or foreign government asks a question, they receive a response."

Week commencing 14 May 2012

"Yesterday I advised that £21 Million had been spent in the last 10 years on legal aid for Abu Quatada and a bunch of other illegal's, who have paid nothing in, but who are allowed to abuse the system and receive benefits"