

Freedom Of Information Act 2015

DECISION NOTICE

Section 42

Decision Number: DN 2025_03

Public Authority: Department of Environment, Food and Agriculture

Address: Thie Slieau Whallian
Foxdale Road
St John's
Isle of Man
IM4 3AS

Decision Date: 12 November 2025

Summary

A Freedom of Information request was submitted to the Department of Environment, Food and Agriculture requesting copies of any racist correspondence between the Department and Ramsey Town Commissioners during a one-month period.

The Authority stated that they could not find the information requested, and when the Applicant requested a review of the response, the Authority refused to undertake one, stating that the Applicant did not meet the criteria to qualify for a review.

The Commissioner deemed this decision inappropriate, and that the Authority failed to provide sufficient assistance to the Applicant. Further, the Authority did not appear to have undertaken a reasonable search for the requested information.

Consequently, the Commissioner requires the Authority to re-process the request and provide a new response. The Authority is also required to provide evidence of procedure and training documents.

Background

1. On 29 January 2024, the applicant ("Applicant") requested the following information from the Department of Environment, Food and Agriculture ("the Authority"):

"can you provide any emails sent to and/or received from ramsey town commissioners making reference to the use of racist language? time frame of november 2023".

2. The Authority replied to seek clarification to the request and asked:

"In order to identify and locate the information that you have asked for we need some further information from you. In particular, it would be helpful to know;

Does your request relate to a specific group of individuals, teams or Directorates within the Department? Does your request relate to a specific event or meeting?"

3. The Applicant responded to the request for clarification stating:

"Sorry, I'm afraid I don't have answers to the questions you have posed. I had hoped by narrowing the request to a restricted timeframe and only correspondence with a specific third party this would have assisted your search sufficiently."

4. On 6 February 2024, the Authority responded to the Applicant stating that *"the public authority does not hold or cannot, after taking reasonable steps to do so, find the information that you have requested"*.
5. The Applicant made a request for review of the decision by the Authority. On 21 February 2024, the Authority rejected the Applicant's review request. They refused to answer the request as they stated it did not specify why the Applicant was dissatisfied with the response provided, as per section 9.2(d) of the Council of Ministers Freedom of Information Act 2015 Code of Practice ("the Code")¹.
6. The Applicant then applied to the Information Commissioner ("Commissioner") requesting a review of the Authority's decision under section 42 of the Freedom of Information Act 2015² ("FOIA").
7. The case was assigned to a casework officer who was satisfied that the Applicant had made a valid request, had sought a review by the Authority and, having received a response from the Authority, had exhausted the complaints procedure (though the Commissioner notes that the Internal Review request was refused by the Authority).
8. The casework officer wrote to the Authority seeking information about the request. The Authority provided this information on 12 March 2024.

¹ <https://www.tynwald.org.im/spfile?file=/business/opqp/sittings/Tynwald%2020142016/2015-GD-0068.pdf>

² [Freedom of Information Act 2015](#)

Analysis

9. Under section 42(1) of the FOIA, the Commissioner is required to decide on whether a public authority has responded to a request in accordance with the requirements of Part 2 of the legislation or whether it was justified in refusing to provide the information requested.
10. The Commissioner has reviewed whether the Authority undertook a reasonable search to locate the information requested, as required by section 1.4 of the Code.
11. Following receipt of the initial request, the Authority issued a notice to the Applicant requesting further information to facilitate the request, under section 14 of the FOIA.
12. As part of such a notice section 4.4 of the Code states that an Authority should explain:

“That any time between an Authority issuing a notice and the time taken by the Applicant to provide the clarification will be disregarded in determining when the standard processing period of 20 working days ends.”
13. The Authority did not include this explanation in their notice.
14. In the Applicant’s response to the notice the Authority did not reduce the scope of the search.
15. The Authority’s internal communications document the search methodology. An email, sent to two staff members within the Environment Division provided background context, articulated the Authority’s assumptions regarding the scope of the requested material, and directed the two recipients to canvass other team members for the information sought.
16. The Commissioner observes that the communication disseminated to the two staff members, which addressed the scope of searches, contained the assertion that *“a whole Department search is not permitted under the FOIA”*. This statement is inaccurate.
17. Further, the Authority’s limited search resulted from an assumption that the request was referencing a certain email. The Authority explained that they limited the request to teams they believed had recent correspondence with Ramsey Town Commissioners.
18. Details of the actual search are unknown. No evidence was provided to confirm what or where the two contacted employees, and their teams, searched.
19. The Commissioner noted that limiting the search to one team or division based upon an assumption was not an appropriate search for a large department (seven Divisions and over 200 employees³).

³ <https://www.gov.im/media/1389631/overview-of-the-public-service-report-april-2025-to-june->

20. The Applicant requested email records within the month of November 2023 between the Authority and Ramsey Town Commissioners. The Commissioner acknowledges that to search the entirety of a public authority's email records may be unreasonable. However, the request itself assisted with narrowing such a search; it was for information in email form, in a one-month period, with a specific body, relating to a specific subject. There are a small number of staff at Ramsey Town Commissioners. The FY2022/23 audited accounts, the most recent available online, notes 17 members of staff (including members and officers)⁴. The Commissioner surmises therefore that approximately 17 email addresses would be within the scope of this search on the Ramsey Town Commissioners' side. This number is not unreasonable as an initial search.

21. The Commissioner recognises that the Authority is a much larger organisation. However, Government Technology Services ("GTS") could have been utilised to identify emails sent from the Department's email addresses to Ramsey Town Commissioner email addresses, further narrowed by a one-month period, and again by the specific subject matter. Depending on the number of results returned, the Authority may then have considered whether manually searching for them would have been burdensome. However, the Authority did not appear to undertake searches, nor engage GTS to facilitate any searches.

22. The Authority responded to the request, stating that it *"does not hold or cannot after taking reasonable steps to do so, find the information that you have requested"*.

23. The Applicant was not satisfied with the search undertaken and requested that the Authority undertake an internal review of the response:

"You have stated you have taken reasonable steps to find the information requested and this has been described as - "the Department reached out to individuals who have dealt with and may have correspondence with Ramsey Town Commissioners within the timeframe requested".

Would it not be a reasonable step, given the narrow field of time and 3rd party correspondent, to search through the DEFA email server for any email involving "@rtc.gov.im" and identifying any correspondence this would apply to? This seems a reasonable step and more reliable than your approach detailed which failed to locate any information?"

24. The Authority responded, refusing to undertake the review, stating the following:

"Under the Code of Practice Section 9.2 (d), your internal review request has been rejected as it does not specify why you are dissatisfied with the response and all the information requested was provided in the original response.

The Department sought clarification to narrow down the search however you were unable to do so and therefore Under the Code of Practice, Section 1.4 (a) and Section

[2025_compressed.pdf](#)

⁴ [rtc-signed-accounts-2023.pdf](#)

2.4 (b), the Department considered your original request to an unreasonable use of officers time and strain on time and resources. The Department carried out a search in line with your request scope to identify if the information was held and as such no information was located”.

25. Review of the Applicant’s request for an internal review by the Commissioner deemed the request valid. It was clear to the Commissioner that the Applicant was requesting a review of the original response owing to, in the Applicant’s view, the apparent absence of a reasonable search for the requested information.
26. The correspondence relating to the Authority’s refusal to undertake an Internal Review of the response was not appropriate. The Authority referenced the Code’s section 9.2(d) as part of their refusal but failed to consider the end of the section which advises *“the Authority has a duty to advise and assist the Applicant in making a valid review request”*.
27. The correspondence states that the original request was considered *“an unreasonable use of officers time and a strain on resources”*. The Commissioner finds this statement, which was not included in the Authority’s original response, was inappropriate in the context of refusing to respond to the Internal Review request. If the Authority had deemed the request unreasonable, they should have stated this in their initial response, or as part of the outcome of their review.
28. Failure to undertake an internal review was a missed opportunity to uphold the principles of transparency and accountability that are central to the FOIA.
29. The Commissioner has considered the following similar cases when reaching her decision:
 - A Decision Notice (reference: DN2023/05⁵) to Marown Parish Commissioners, who failed to undertake a reasonable search for the requested information, which was also related to email correspondence. The Commissioner asked the Authority to undertake a reasonable search in compliance with the Code. The Decision Notice specified what a reasonable search should look like for the particular request.
 - A Decision Notice (reference: DN2024/05⁶) to Manx Care, considered that a failing on the Authority’s behalf warranted the Authority to provide FOI process and procedure documentation, alongside FOI training documentation.
 - A Tribunal Decision (reference: EA-2023-0094⁷) vs the Jersey Information Commissioner deemed what a reasonable search for information should be, and notes that:

⁵ [dn2023_05_marown_30may2023.pdf](#)

⁶ [dn2024_05_mxc_13122024_redacted.pdf](#)

⁷ [019-101023-Judges-Decision-.pdf](#)

“A public authority should conduct an appropriate and reasonable search for information. This should include, as a minimum, searching in the places where it is reasonable to expect that the public authority would find the information, if it existed.”

Decision

- 30. The Commissioner must decide whether the Authority was justified in refusing to give the information requested.
- 31. In this instance, the Commissioner’s decision is to uphold the Applicant’s complaint.
- 32. The Commissioner finds that the Authority did not undertake a reasonable search for the requested information and was not justified in refusing to undertake an Internal Review.

Reasons for decision

- 33. The right of access to information is set out in section 8 of the FOIA, which states:
“Subject to this Act, every person who is resident in the Island has a legally enforceable right to obtain access, in accordance with this Act, to information held by a public authority.”
- 34. Section 1.4 of the Code provides guidance to public authorities on undertaking a reasonable search.
- 35. In this instance, the Authority failed to demonstrate that a reasonable search had been undertaken to locate the requested information.
- 36. The Authority also failed to demonstrate compliance with section 15 of the FOIA (*“Duty to provide advice and assistance”*) when refusing to undertake an Internal Review of the original response.

Action required

- 37. Accordingly, the Commissioner must consider what steps should be taken by the public authority. In doing so, the Commissioner bears in mind the purpose of the FOIA set out in section 3 which refers to information being available to the public to promote the public interest and sets out exceptions to the right of access as necessary to maintain a balance with rights to privacy, effective government and value for the taxpayer.
- 38. The Commissioner has a duty under section 54 to promote good practice with respect to the performance of the functions of a public authority, including compliance with the FOIA and the Code.
- 39. The Authority is therefore reminded of its obligation to undertake a reasonable search for information under section 1.4 of the Code.
- 40. The Commissioner notes that the formula for undertaking a reasonable search should be

flexible, but must:

- Be tailored to the subject matter.
- Include a search of the Authority's relevant system(s), including electronic systems, physical files and consultations where appropriate.
- Require the searcher to have knowledge of the Authority's systems.
- Be demonstrable.

41. The Commissioner requires the Authority to either disclose the information requested to the Applicant or provide the Applicant with a further refusal notice in accordance with section 17.

42. Considering the Authority's failures in relation to their refusal to undertake an Internal Review, and the failure to uphold the principles of the FOIA, the Commissioner requires the Authority to provide them with:

- a) All current FOI process and procedure documentation.
- b) All current FOI training documentation, inclusive of training plans/schedules and training logs/dates.

43. The Authority is required to complete the above steps within 30 days of the date of the Decision Notice.

44. If the Authority, after reviewing the requested information, decides to issue another refusal notice, that notice must include a clear rationale. The Applicant then has the right to apply for a review of that decision by the Commissioner under section 42.

Appeal

Should either the Applicant or the Authority wish to appeal against this decision, they have the right to appeal to the High Court on a point of law only. Any such appeal must be made within 28 (calendar) days after the date of this Decision Notice. Further information about the Appeal process is available on the General Registry's web site at:

<https://www.courts.im/courtprocedures/AppealsCivil/>

An appeal should be filed at or sent to:

The Court Office
Isle of Man Courts of Justice
Deemsters Walk
Bucks Road
Douglas
Isle of Man
IM1 3AR

Enforcement

In Decision Notices where the Commissioner sets out what action they require the public authority to take, in the event a public authority fails to comply with this decision and any associated action required, the Commissioner has the right to certify to the High Court that it has failed to comply. The Court must inquire into the matter and may deal with the Authority as if it had committed a contempt of court.

Publication

The Commissioner will publish this Decision Notice five working days after it has been issued to the Applicant and the Authority.



Alexandra Delaney-Bhattacharya

Isle of Man Information Commissioner

12 November 2025