



**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
Information Rights**

**Tribunal Reference:** EA/2013/0063  
**Appellant:** Rex Greatrex  
**Respondent:** The Information Commissioner  
**Judge:** NJ Warren

**DECISION NOTICE**

1. Mr Greatrex is convinced that there has been a major pension fraud in connection with the mine workers pension scheme.
2. On 7 January 2010 he made a request to the Department for the Environment and Climate Change (DECC) under the Freedom of Information Act (FOIA). DECC does not have any responsibility for the pension fund. It has, however, inherited the British Coal archives and holds them in remote storage in Staffordshire. They extend to about 20 linear miles.
3. Mr Greatrex asked for notes of the meetings which determined the terms of the distribution of a surplus that had arisen in the scheme about 20 years previously. Mr Leitch, who works for DECC found a file held by the British Coal Legal Department which seemed to contain relevant material. Having extracted that, and removed references to individuals involved, he sent the product of his efforts to Mr Greatrex. All in all, it took him about six hours to do this.
4. In June 2010 Mr Greatrex “clarified” his request and said that he wanted to see:-  
  
“All documentation with regards to the distribution of the mine workers pension scheme surpluses to include minutes of meetings, letters between interested parties and records of telephone conversations”.

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5. DECC refused the request on the ground that compliance would exceed the cost limit in Section 12 FOIA. Mr Greatrex complained to the ICO. There had been a suggestion that something more might be done to help Mr Greatrex if he made his request more specific. Mr Leitch offered to help him by providing a list of key words and terms on the basis of which he could commission a search of the archive. He did so but the result was a list of some 1700 file titles. Mr Leitch reckons that he spent roughly another six hours on this search.
6. He then retrieved 35 actual files which seemed as if they might help Mr Greatrex. He read through them and the ensuing extracting of relevant material, editing and copying for Mr Greatrex took about another eight hours of his time. There would be other time spent by staff locating the files in Staffordshire.
7. The ICO investigated Mr Greatrex's complaint and concluded that DECC had correctly applied Section 12 FOIA to the request. The rules for calculating costs are set out in para 19 of the ICO decision notice.
8. Mr Greatrex has appealed to the Tribunal against the ICO decision.
9. In his letter of appeal, Mr Greatrex says he is convinced that DECC have never had any intention of releasing the documents requested and that the ICO's decision renders that organisation impotent and toothless. In other comments invited by the Tribunal he says that he doesn't believe that there are thousands of documents relating to his request and that DECC have failed to supply evidence that there is. He says Mr Leitch took so long only because he is a "pension novice" and that DECC should ask the pension scheme for any documents which they hold. He says that he is convinced that the ICO are looking for a way out in an attempt to stop his relentless pursuit of the documents and if his case were to fail this would just encourage the government to claim that there are thousands of documents in all future cases.
10. The ICO has applied to strike out the appeal on the ground that it has no reasonable prospect of success.
11. I accept the ICO's submission on their application – although it may be that something has gone awry with some of the arithmetic in the decision notice.

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12. It is simply not the case that DECC's position is unsupported by evidence. The letter from Mr Leitch to the ICO dated 28 January 2013, upon which the ICO relies, is quite obviously a careful and not unsympathetic account from a civil servant familiar with the fact that there is a mass of material held in the British Coal Archives of the effort he has expended so far to assist Mr Greatrex. DECC's case, of course, is not based on the premise that there are thousands of documents which come within the scope of the request; rather there is a very large number of documents which would have to be searched in order to discover any more material, within the range of the request, which might be lurking within them.
13. There is simply no material before the Tribunal on which it could properly conclude that Section 12 FOIA does not relieve DECC of any further obligations in this case. It is inevitable, if the case went to a full Tribunal, that the Tribunal would uphold the ICO decision notice.
14. In these circumstances, it seems to me to be unfair on the ICO and on the public authority for the case to continue; and I would be doing no favours to Mr Greatrex, given the anxieties most people experience in connection with Tribunal proceedings, if I allowed it to do so. I therefore strike out the appeal on the ground that it has no reasonable prospect of success.

**(Signed on the original)****NJ Warren****Chamber President****Dated 9 July 2013**