

Freedom of Information (Jersey) Law 2011

DECISION NOTICE

JOIC Reference	CAS-05479-V6R4S9
Date of Decision Notice	4 December 2025
Scheduled Public Authority	People Services
Address	Government of Jersey Union Street St Helier Jersey JE2 3DN
Date of Request	2 June 2025
Date of Response	24 June 2025
Date of request for Internal Review	25 June 2025
Date of Internal Review Response	23 July 2025
Date of appeal to Information Commissioner	25 July 2025

Summary/Decision

1. On 2 June 2025, the Complainant requested certain information from People Services (the **SPA**) about the current Government recruitment freeze. Specifically, the Complainant requested, "*1. A list of all requests to departmental Chief Officers for an exemption to the recruitment freeze, including the Job Title for each role and whether approval for an exemption was agreed or not for the role 2. For those roles approved at Chief Officer level, which were then declined when assessed by the CEO or Chief People Officer or States Employment Board (the Request).*
2. The SPA wrote to the Complainant on 24 June 2025 (the **Response**) stating that all of the information sought in the Request was being declined, citing the exemption at Art.16 of the Freedom of Information (Jersey) Law 2011 (the **FOI Law**), on the basis that the time and costs

required to extract and compile the information would exceed the limit prescribed by the Freedom of Information (Costs) (Jersey) Regulations 2014 (the **Costs Regulations**).

3. The Complainant did not agree with the Response and requested an internal review on 25 June 2025 (the **IR Request**).
4. The SPA responded to the IR Request on 23 July 2025 (the **Internal Review Response**) and overturned the previous decision that had been made, stating that during the Panel review, it was considered that the application of Article 3 of the FOI Law would be more suitable applied to the request, which states that "*A Schedule Public Authority is not required to manipulate and create new data sets. This information is not held in recorded form*" (the **Revised Response**)
5. The Complainant did not agree with the outcome of the Internal Review and issued an appeal to the Information Commissioner (the **Commissioner**) on 25 July 2025 (the **Appeal**).
6. The Commissioner's decision is to that the appeal is partially upheld. There are no further steps the SPA needs to take in relation to this matter however.

The Role of the Information Commissioner

7. It is the duty of the Commissioner to decide whether a request for information made to a SPA has been dealt with in accordance with the requirements of Part 1 of the FOI Law.
8. This Decision Notice sets out the Commissioner's decision.

The Request

9. The Complainant's Request dated 2 June 2025 was in the following terms:

"Regarding the current government recruitment freeze, I would like to know: 1. A list of all requests to departmental Chief Officers for an exemption to the recruitment freeze, including the Job Title for each role and whether approval for an exemption was agreed or not for the role 2. For those roles approved at Chief Officer level, which were then declined when assessed by the CEO or Chief People Officer or States Employment Board?"

"The current approval process for exemptions to the recruitment freeze is integrated within a broader process that also manages other employee-related changes".

10. On 24 June 2025 the SPA provided the Response in the following terms:

"The current approval process for exemptions to the recruitment freeze is integrated within a broader process that also manages other employee-related changes Extracting and compiling the specific data required to respond to this request would exceed the time and cost limit set out in Article 16(1) of the Freedom of Information (Jersey) Law 2011. Therefore, we must decline to provide a response to this question."

However, the People Services department is currently developing a new form that will allow for clearer categorisation of applications, approvals, and rejections related to the recruitment freeze. This improved system is expected to be implemented by July 2025, enabling us to offer enhanced information in this area moving forward.

Article applied

Article 16 - A scheduled public authority may refuse to supply information if cost

excessive

(1) A scheduled public authority that has been requested to supply information may refuse to supply the information if it estimates that the cost of doing so would exceed an amount determined in the manner prescribed by Regulations."

11. The SPA declined to provide the information requested, citing the exemption provided for at Art.16 of the FOI Law.

12. The Complainant issued their IR Request on 25 June 2025 indicating that they did not agree with the SPA's reliance on Art.16 of the FOI Law. Specifically, in their IR Request, the Complainant set out the following reasons why they did not consider that the Response had been provided in compliance with the FOI Law:

"I would like to request a review of the decision to not release the information requested on the grounds of time/cost it would take. The information requested (regarding exemptions to the recruitment freeze) relates to a very limited number of officers (i.e. the Chief Officers of each department and the Chief Executive Officer) and even a manual search and tally would not be expected to exceed the time/cost limits, assuming all communications are electronic and decisions recorded accordingly. Given that the requests, as per the response, are otherwise built into an existing process I do not understand how it can be prohibitively timely or expensive to provide this information."

13. The results of the Internal Review were communicated to the Complainant on 23 July 2025 as follows:

"This internal review has been conducted by an official of appropriate seniority who has not been involved in the original decision. As part of their review, they will be expected to understand the reasons behind the original response, impartially determine whether the response should be revised, and how so, considering the request and the information held, any relevant exemptions, or other relevant matters under the Law.

The Internal Review Panel was asked to review the original response and confirm the following:

Does the FOI request relate to a body to which the Law applies, or information held by a body covered by the Law?

If the answer is no, all the other questions are not applicable. Further questions if above is a yes:

i. Was the right information searched for and reviewed?

ii. Was the information supplied appropriately?

iii. Was information appropriately withheld in accordance with the articles applied and were the public interest test/ prejudice test properly applied?

Following discussion, it was agreed by the Panel that the decision was overturned, and the following was agreed.

During the internal review, it was considered that the application of Article 3 would be more suitably applied to this request which states that:

A Scheduled Public Authority is not required to manipulate and create new data sets.

This information is not held in recorded form.

Article 3 - Meaning of "information held by a public authority"

For the purposes of this Law, information is held by a public authority if –

- (a) it is held by the authority, otherwise than on behalf of another person; or*
- (b) it is held by another person on behalf of the authority.”.*

The Investigation

Scope of the case

14. On 25 July 2025, the Complainant contacted the Commissioner to appeal against the Internal Review Response. The Complainant asked the Commissioner to review the Complainant's Request and the responses received from the SPA to ascertain whether what had been provided was in accordance with the FOI Law and whether the exemptions cited by the SPA were appropriately applied.
15. The Commissioner has set out in this Notice the issues he has had to consider in respect of the relevant exemptions cited by the SPA.
16. In coming to a decision on this matter, the Commissioner has considered all the relevant submissions, or parts of submissions, made to him by both the Complainant and the SPA. He is satisfied that no matter of relevance has been overlooked.

Chronology

17. On 30 July 2025, the Commissioner wrote to the SPA to advise that the Complainant had made an Appeal to the Commissioner, pursuant to Art.46 of the FOI Law. The SPA was asked to provide their written submissions in response to the complaint made by the Complainant.
18. The SPA responded to that letter on 13 August 2025, providing detailed explanations as to why it considered the Art.3 exemptions had ultimately been appropriately applied in this case. As is often the case in such matter, the answers provided by the SPA gave rise to further questions. The Commissioner raised those questions on 20 August 2025, and the SPA provided its response on 3 September 2025. Additionally, given the issues raised by the SPA in terms of the complexities involved in extracting the required information from the source data, the Commissioner's staff were able to inspect the SPA's systems to see how the information was recorded. This took place on 8 October 2025.

Analysis

Art.3 – INFORMATION HELD

The Complainant's Position

19. The Complainant's position was simply articulated in its appeal to the Commissioner, which is that they do not accept the SPA's position that the information is not held.

The SPA's Position

20. The SPA contends (as part of the IR Response and in their appeal submission to the Commissioner) that the information requested by the Complainant is not held by the SPA because

there is no list existing containing that information (citing Art.3 of the FOI Law) and that in order to locate the information required to provide a response, such would take in excess of the 12.5 hours provided for under Reg.2(1) of the Costs Regulations, and therefore it is not required to take such steps citing Art.16 of the FOI Law. Specifically, in its IR Response it said that:

"Following discussion, it was agreed by the Panel that the decision was overturned, and the following was agreed.

During the internal review, it was considered that the application of Article 3 would be more suitably applied to this request which states that:

A Scheduled Public Authority is not required to manipulate and create new data sets.

This information is not held in recorded form."

21. In addition to explanations provided in its IR Response, the SPA was invited to provide submissions to this office. As part of its submissions on 13 August 2025, it expanded on the above and submitted that:

"The team accessed the data via a live link for the wear form process. The data is accessed via excel. It can be refreshed each minute of each date if needed. Currently there are in excess of 70,000 fields (excel cells). This would require manual manipulation as many of those fields contain free text from the department submitting the form. There is no structure to this data..."

22. In response to the question about what prompted the change in position from Art.16 to Art.3 during the internal review, the SPA said:

*"The questions covered by the panel raised that should the request be reduced or could you offer a reduced delivery would this be possible. It was reflected by the SPA to the panel that it would not be possible, as the data is not held in a format that can be shared without considerable manipulation **and the law states a SPA should not manipulate data**. It was not held "as information held" to answer the question manipulation is required. The decision was made by the panel that Article 3 would better reflect how the data is held" (emphasis supplied).*

23. The Commissioner also asked the SPA to clarify the SPA's comment that a SPA "is not required to manipulate and create new data sets" to which it said:

"This has been used for many years across States SPA's and the consideration to confirm information not held is covered in the JOIC guidance page 7, 15 and 18. [joic-12a-freedom-of-information_2.pdf](#)"

24. In light of the above response, on 20 August 2025, the Commissioner sought further clarity on the Internal Review panel's interpretation of Art. 3 of the FOI Law:

"..."

- Why did the Panel conclude that fulfilling the request would involve creating new information rather than collating existing records?*
- What does "manipulation" mean in this context? Does it include filtering, interpreting, or reformatting existing data?*

The guidance referenced in the response (JOIC https://jerseyoic.org/media/unefoil2n/joic-12a-freedom-of-information_2.pdf page 7, 15 and 18) does not states that data from

multiple sources cannot be collated. In fact, the guidance outlines that information held by a SPA regardless of format or location, may be subject to disclosure under FOI Law".

25. The SPA's response (on 10 September 2025) was that:

"The panel viewed the spreadsheet and agreed that due to the quantity of data and the free text in the majority of fields a manual one field at a time process may be the only was (sic) of reviewing the data..."

Due (sic) "considered" manual work, it was seen as manipulation, as it would not then be in the format of the "information held". Filtering, interpreting and reformatting would all be included in order to use the data for a response, and it would be on a 'per field/cell' basis, which outlined above is over 70'000."

Analysis

26. The SPA explained to the Commissioner that in order to respond to the Request, it would need to manually review and extract information from an Excel Spreadsheet that contained some 70,000 cells of information. The Excel spreadsheet contained the information requested by the Complainant, but it had not been captured in a standardised way and it also included much information that was not relevant to the Request. It would therefore require manual review to identify and extract information relevant to the Complainant's Request.

27. In this decision notice dated 23 December 2024, ([Decision Notice](#)) the Commissioner has previously determined when information is deemed held and, specifically, in light of some apparent confusion (albeit on the part of a different SPA) about what is required by a SPA in order to properly respond to a request for information made by an individual. For the purposes of this Decision Notice, it is worth repeating those findings in full:

*"22. Firstly, there appears to be some confusion on the part of the SPA regarding its duties under the FOI Law in that it appears to consider that it is not obliged to search for and collate information into a form that can then be passed to the requester in response to a request. The FOI Law is clear that an individual has the right to ask for information 'held' by a public authority and to have that information communicated to them. The definition of "held" is not set out in the FOI Law, but guidance from the UK ICO (which although not binding in this jurisdiction, the Commissioner considers helpful in this instance) is clear that **a SPA may need to draw information together from various sources and put it together in order to respond to a request for information**:*

"There are some circumstances where you may still "hold" information, even though you do not have it immediately to hand when a request is made.

Extracting and compiling information

*Sometimes a requester wants a list of documents, schedule of correspondence or a document summary rather than a particular document itself. **Whilst you may not physically possess such a document, you would probably still hold the information, because you could compile or extract it from raw data that you possess.***

If you have the "building blocks" necessary to produce a particular type of information, it is likely that you would hold that information unless it requires particular skills or expertise to put the building blocks together.

Example

Decision notice FS50070854 concerned a request for information about discussions between the UK and the US on energy policy and oil production. The initial request was for the information on the actual discussions. This was followed up with a request for a schedule of documents falling within the scope of the original request. In respect of the schedule, the Commissioner stated that: 5 of 14 "The information already exists: the public authority cannot be said to be creating it. And, while producing a list of the documents in which the relevant information is contained may be a new task, it is not creating new information; it is simply a re-presentation of existing information..."

...

*Exercising skill and judgement to compile information Creating lists and schedules is usually a relatively simple – if time-consuming – task. However, there are some circumstances where you cannot compile information without exercising a degree of skill or judgement. **When you hold information in electronic files and can retrieve and manipulate it using query tools or language within the software, that information is held for the purposes of FOIA. The use of query tools or languages does not involve the creation of new information. Such tools are only a means of filtering existing information...**¹*

23. *This is a standard facet of a SPA's freedom of information obligations and, in this case, meeting information would likely be held within calendar entries and so the SPA should theoretically be able to compile a response to the Complainant's Request by conducting relevant searches of appropriate systems, including deploying relevant search terms. If those searches are inconclusive and it becomes apparent that it is only a manual search that could definitively determine whether or not the requested information is held, it is then that a SPA may start to consider whether the costs of compliance would exceed the appropriate limit.* (emphasis supplied)

28. As noted above, the SPA referred to pages 7, 15 and 18 of the Commissioner's Guidance in support of its stance that collation of information amounts to manipulation and creation of new data which therefore falls outside the scope of the FOI Law.

a. Page 7 of the Commissioner's guidance says that:

"When is information covered by the Freedom of Information Law?

The Law covers all recorded information held by a SPA. It is not limited to official documents and it covers, for example, drafts, emails, notes, recordings of telephone conversations and CCTV recordings. Nor is it limited to information you create, so it also covers, for example, letters you receive from members of the public, although there may be a good reason not to release them.

Requests are sometimes made for less obvious sources of recorded information, such as the author and date of drafting, found in the properties of a document (sometimes called meta-data). This information is recorded so is covered by the Law and you must consider it for release in the normal way.

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/determining-whether-we-hold-information/>

Similarly, you should treat requests for recorded information about the handling of previous freedom of information requests (meta-requests) no differently from any other request for recorded information.

The Law does not cover information that is in someone's head. If a member of the public asks for information, you only have to provide information you already have in recorded form. You do not have to create new information or find the answer to a question from staff who may happen to know it..."

b. Page 15:

"...Under the Law, if you have information in your records that answers the question you should provide it in response to the request. You are not required to answer a question if you do not already have the relevant information in recorded form.

In practice this can be a difficult area for SPAs. Many of those who ask questions just want a simple answer, not all the recorded information you hold. It can be frustrating for applicants to receive a formal response under the Law stating that you hold no recorded information, when this doesn't answer their simple question. However, applicants do have a right to all the relevant recorded information you hold, and some may be equally frustrated if you take a less formal approach and fail to provide recorded information."

29. Page 18 of that guidance note goes on to say that:

"What happens if we don't have the information?

The Law only covers recorded information you hold. However if someone makes a request for information and you do not hold it then the Law directs that the SPA must 'inform the applicant accordingly.'

When compiling a response to a request for information, you may have to draw from multiple sources of information you hold, but you don't have to make up an answer or find out information from elsewhere if you don't already have the relevant information in recorded form." (emphasis supplied)

30. Whilst the SPA indicated that the FOI Law "states a SPA should not manipulate data" this is not correct and not what the Guidance note suggests. Nowhere in the FOI Law does this phrase appear, nor the word "manipulate". What it does say at Art.8(a) is that *"If a person makes a request for information held by a scheduled public authority – (a) the person has a general right to be supplied with the information by that authority; and (b) except as otherwise provided by this Law, the authority has a duty to supply the person with the information."*

Commissioner's Decision

31. Essentially, the SPA's position was that because of the identification and extraction element, this amounted to manipulation and that "new information" would need to be created to respond to the Request.
32. The Commissioner does not agree with the SPA's analysis of this point and considers that this is a misinterpretation of the Law and the published guidance.
33. Specifically, the Commissioner's position (which has already been set out in earlier decision notices) is that if the SPA holds the "building blocks" that can be used to collate the answer, then the information is "held" for the purposes of the FOI Law. In this case, the SPA held the

information, but it required extraction from its source data (an Excel spreadsheet) and putting together in a way that answered the Complainant's question. That is not "manipulation" or "creation of new data" – it is drawing the information from the sources the SPA has. The SPA has the "building blocks".

34. The Commissioner's decision is that the SPA did hold the information requested and the Internal Review panel outcome was incorrect and this aspect of the Complainant's appeal is upheld.
35. However, it is this latter part of the process described at para.33 above, however, that can be time consuming and which may trigger a SPA's reliance on the cost limits set out in Art.16 of the FOI Law.

Art.16 - A scheduled public authority may refuse to supply information if cost excessive

The Complainant's Position

36. The Complainant's position on this aspect is as articulated in their IRR, which is that they do not accept the explanations supplied by the SPA regarding the likely work involved in having to search the GoJ systems. The Complainant considers that Art.16 was incorrectly applied by the SPA at the time of the initial Response.

The SPA's Position

37. In its initial Response, the SPA concluded that because the current approval process for exemptions to the recruitment freeze is integrated within a broader process that manages employee related changes, extracting the relevant information would exceed the time and cost limit as set out in Art.16(1) of the FOI Law.
38. As noted above, the SPA also advised the Commissioner that the Excel spreadsheet contained some 70,000 fields that would require manual review to identify and extract information relevant to the Complainant's Request. It explained that in a similar scenario three (3) employees working on such full time were not able to undertake a similar task on a comparably smaller set of data. On that basis, the SPA said that the necessary work could not be undertaken within the relevant limits as the identification and review would take longer than the 12.5hours provided for in the Costs Regulations.

Analysis

39. Art.16(1) of the FOI Law says that:

"A scheduled public authority that has been requested to supply information may refuse to supply the information if it estimates that the cost of doing so would exceed an amount determined in the manner prescribed by Regulations."

40. The Costs Regulations allow a SPA to refuse to comply with a request for information if the authority estimate that the cost of compliance would exceed the specified amount as set out in those regulations(Reg.2(1)). Reg.2(3) of the Costs Regulations also allow a scheduled public authority to charge the following activities at a flat rate of £40 per hour of staff time:
 - a. Determining whether the scheduled public authority holds the information;
 - b. Locating the information, or a document which may contain the information;
 - c. Retrieving the information, or a document which may contain the information; and
 - d. Extracting the information from a document containing it.
41. The cost limit is currently £500 calculated at 12.5hours work.

42. Page 22 of the Commissioner's Guidance says:

"When can we refuse a request on the grounds of cost?

The Law recognises that freedom of information requests are not the only demand on the resources of a SPA. They should not be allowed to cause a drain on your time, energy and finances to the extent that they negatively affect your normal public functions.

Currently, the cost limit for complying with a request or a linked series of requests from the same person or group is set at £500 for all SPAs. You can refuse a request if you estimate that the cost of compliance would exceed this limit. This provision is found at Article 16(1) of the Law and the Freedom of Information (Costs) (Jersey) Regulations 2014 ("the Costs Regulations").

(It should be noted that when the Parishes are included within the Law the cost limit will be £200 or 5 hours @ £40 per hour.)

The Cost Regulations set out the circumstances in which SPAs can refuse to supply information to a request if the costs of doing so would be excessive.

When calculating the costs of complying, you can aggregate (total) the costs of all related requests you receive within 60 consecutive working days from the same person or from people who seem to be working together.

How do we work out whether the cost limit would be exceeded?

You are only required to estimate whether the limit would be exceeded. You do not have to do the work covered by the estimate before deciding to refuse the request. However, the estimate must be reasonable and in accordance with the Costs Regulations.

When estimating whether the limit would be exceeded, you can only take into account the cost of the following activities:

- *determining whether you hold the information;*
- *finding the requested information, or records containing the information;*
- *retrieving the information or records; and*
- *extracting the requested information from records.*

The biggest cost is likely to be staff time. You should rate staff time at £40 per person per hour, regardless of who does the work, including external contractors. This means a limit of 12.5 staff hours to equate to the £500 limit.

You cannot take into account the time you are likely to need to decide whether exemptions apply, to redact (edit out) exempt information, or to carry out the public interest test..."

Commissioner's Decision

43. The Commissioner has seen the Excel spreadsheet that contains the requested information and is satisfied with the SPA's original assertion that in this case the costs incurred by the SPA in terms of identifying and extracting the requested information would exceed the relevant limits set out in the Costs Regulations and the original Response provided by the SPA was correct on this occasion.

44. This aspect of the Complainant's appeal is therefore not upheld.

The Decision

45. The Commissioner considers that in respect of whether the information was held, the SPA misapplied Art.3 of the FOI Law at the point of the Internal Review. The information was "held" for the purposes of the law.
46. However, the Commissioner considers that in respect of the original Response, the exemption provided for at Art.16 of the FOI Law was actually appropriately deployed and there was no requirement for the SPA to provide the information requested.
47. Accordingly, the Complainant's appeal is partially upheld (because of the subsequent misapplication of Art.3). However, there are no further steps the SPA needs to take in this matter.

Right of Appeal

48. An aggrieved person has the right to appeal against this Decision Notice to the Royal Court of Jersey.
49. Information on how to do so can be found on www.jerseyoic.org.
50. Any Notice of Appeal should be served within 28 (calendar) days of the date on which the Decision Notice is issued.

Dated this 4th day of December 2025

Signed



Mr Paul Vane
Information Commissioner
Office of the Information Commissioner
5 Castle Street
St Helier
Jersey

Legal Appendix

8 General right of access to information held by a scheduled public authority

If a person makes a request for information held by a scheduled public authority –

- (a) the person has a general right to be supplied with the information by that authority; and
- (b) except as otherwise provided by this Law, the authority has a duty to supply the person with the information.

9 When a scheduled public authority may refuse to supply information it holds

- (1) A scheduled public authority may refuse to supply information it holds and has been requested to supply if the information is absolutely exempt information.
- (2) A scheduled public authority must supply qualified exempt information it has been requested to supply unless it is satisfied that, in all the circumstances of the case, the public interest in supplying the information is outweighed by the public interest in not doing so.
- (3) A scheduled public authority may refuse to supply information it holds and has been requested to supply if –
 - (a) a provision of Part 3 applies in respect of the request;
 - (b) a fee payable under Article 15 or 16 is not paid; or
 - (c) Article 16(1) applies.

13 Time within which a scheduled public authority must deal with a request for information

- (1) A scheduled public authority must deal with a request for information promptly.
- (2) If it supplies the information it must do so, in any event, no later than –
 - (a) the end of the period of 20 working days following the day on which it received the request; or
 - (b) if another period is prescribed by Regulations, not later than the end of that period.
- (3) However, the period mentioned in paragraph (2) does not start to run –
 - (a) if the scheduled public authority has, under Article 14, sought details of the information requested, until the details are supplied; or
 - (b) if the scheduled public authority has informed the applicant that a fee is payable under Article 15 or 16, until the fee is paid.
- (4) If a scheduled public authority fails to comply with a request for information –
 - (a) within the period mentioned in paragraph (2); or

(b) within such further period as the applicant may allow, the applicant may treat the failure as a decision by the authority to refuse to supply the information on the ground that it is absolutely exempt information.

(5) In this Article “working day” means a day other than –

- (a) a Saturday, a Sunday, Christmas Day, or Good Friday; or
- (b) a day that is a bank holiday or a public holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951^[4].

18 Where a scheduled public authority refuses a request

The States may, by Regulations, prescribe the manner in which a scheduled public authority may refuse a request for information.

3 Meaning of “information held by a public authority”

For the purposes of this Law, information is held by a public authority if –

- (a) it is held by the authority, otherwise than on behalf of another person; or
- (b) it is held by another person on behalf of the authority.

16 A scheduled public authority may refuse to supply information if cost excessive

(1) A scheduled public authority that has been requested to supply information may refuse to supply the information if it estimates that the cost of doing so would exceed an amount determined in the manner prescribed by Regulations.^[2]

(2) Despite paragraph (1), a scheduled public authority may still supply the information requested on payment to it of a fee determined by the authority in the manner prescribed by Regulations for the purposes of this Article.

(3) Regulations may provide that, in such circumstances as the Regulations prescribe, if two or more requests for information are made to a scheduled public authority –

- (a) by one person; or
- (b) by different persons who appear to the scheduled public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.