

**Freedom of Information Act 2000 (FOIA)  
The Re-use of Public Sector Information Regulations 2015  
(‘RPSI’)**

**Decision notice**

**Date:** 9 May 2017

**Public Authority:** The Post Office Ltd  
**Address:** Finsbury Dials  
20 Finsbury Street  
London  
EC2Y 9AQ

**Decision (including any steps ordered)**

---

1. The complainant made a request to the Post Office under the Re-use of Public Sector Information Regulations 2015 (RPSI) to re-use the information in its ‘branch finder’ tool and asked that it make it available under the terms of the Open Government Licence. However, the Post Office only permitted re-use under the Non-commercial Government Licence and the complainant also complained that it had failed to make the information available in a re-usable format.
2. The Commissioner’s decision is that the Post Office breached regulation 12(2) by placing unnecessarily restrictive conditions on re-use. The Commissioner has also found that the Post Office breached regulation 11(1) by failing to make the information available in a machine readable format; regulation 8(1) by failing to respond to the request within a reasonable time; and regulation 17(3) by failing to complete an internal review within a reasonable time.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The Post Office shall permit re-use under the Open Government Licence.
  - The Post Office shall make the requested information available to the complainant in an open and machine readable format.

4. The public authority must take these steps within 35 calendar days of the date of this Decision Notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

---

5. On 23 October 2015 the complainant made a request to the Post Office under the Re-use of Public Sector Information Regulations 2015. The request read as follows:

*"In accordance with RoPSIR regulation 6, I would like to formally request permission to re-use the Post Office branch information (name, address, opening times, service details etc., but excluding the Google map) that is displayed in response to searches using your online "Branch Finder" tool at <http://www.postoffice.co.uk/branch-finder>. The purposes for which the information will be re-used are : (a) to help improve the mapping of Post Office branches in OpenStreetMap, and (b) to make a consolidated dataset available to others in a reusable electronic form under an open licence. I would therefore like to request that you grant permission to re-use this information for these purposes under the terms of the Open Government Licence v3 (<http://www.nationalarchives.gov.uk/doc/o...>). Given my intended uses, any more restrictive licensing terms would be likely to "unnecessarily restrict" the way in which the information can be re-used, contrary to RoPSIR regulation 12."*

6. There was then a significant delay as the Post Office said that since the request raised complex issues it needed to extend the period for responding to the request in accordance with regulation 8(2). The complainant also asked for the Post Office to carry out an internal review and to explain what the complex issues were but the Post Office did not provide a substantive response until 14 March 2016.
7. The Post Office now said that the information which is displayed in response to a search using Branch Finder is not available for re-use under the terms of an open licence but was available for re-use under the Non-Commercial Government Licence.
8. The complainant subsequently asked the Post Office to complete an internal review and in doing so asked it to reconsider its decision not to allow re-use under the Open Government Licence and whether this complied with regulation 12(2)(a). He also referred to regulation 11(a)

and 11(b) and asked that the requested information be made available in a machine-readable format such as a CSV file or else as a raw database dump. The complainant also referred to his earlier request for review in which he had asked the Post Office to review the length of time taken to respond to his request.

9. The Post Office presented the findings of its internal review on 11 May 2016. The review upheld the decision to permit re-use of the information under the terms of the Non-commercial Government Licence rather than the Open Government Licence and it also found that its response times were reasonable. The review did not mention why the restrictions on re-use were considered 'necessary' and did not respond to the complainant's request that it make the information available in the formats required by regulation 11(1).

### **Scope of the case**

---

10. On 20 May 2016 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
11. The Commissioner agreed with the complainant that the scope of her investigation would be to consider the following:
  - The time Post Office took to respond to the request
  - Whether making the information available for re-use only under the Non-Commercial Government Licence is unnecessarily restrictive.
  - The format in which Post Office provided the information
  - The time Post Office took to respond to the request for an internal review and the content of that review

### **Reasons for decision**

---

#### **Regulation 12 – conditions**

12. Regulation 12 provides that:

*12.—(1) A public sector body may impose conditions on re-use, where appropriate through a licence.*

*(2) Where conditions are imposed they must not unnecessarily restrict—*

*(a) the way in which a document can be re-used; or*

*(b) competition*

13. In this case the complainant requested that the Post Office permit re-use of the information in its branch finder tool under the Open Government Licence. However, the Post Office has only provided access under the Non-Commercial Government Licence which permits free use for non-commercial purposes.
14. The Commissioner's guide to RPSI<sup>1</sup> states that a public sector body may impose conditions on re-use but the conditions must be as open and non-restrictive as possible and that the easiest way to do this is to use the Open Government Licence which allows re-use of public sector information without charge for any purpose, commercial or otherwise, with minimal conditions. It also states that other licences may be appropriate in particular situations, including where there is a charge for re-use and that the UK Government Licensing Framework includes other types of standard licences.
15. The Post Office has said that the Non-Commercial Government Licence is a National Archives standard licence and part of the UK Government Licensing Framework. It is also one of the specified forms of licence under the Section 45 Code of Practice on Datasets under the Freedom of Information Act 2000. Therefore, it said that it is recognised as being an appropriate form of licence for licensing re-use of public sector information and as such it did not consider this to unnecessarily restrict the way in which responses to a search under Branch Finder can be used.
16. The Commissioner understands that the Post Office wishes to restrict re-use to the Non-Commercial licence only because it is concerned that the information it makes available for re-use would quickly become inaccurate due to changes to its network. The Post Office explained that "given the extensive nature of our retail network of over 11,500 branches, closures, whether permanent or temporary, re-locations, and other factors render any complete data set inaccurate almost as soon as it is released. We are, internally, able to keep these data up to date since we operate that network, and this enables us to keep the Branch Finder Tool pretty near accurate". It said that it was for this reason it was only willing to supply the information to the complainant on the basis of a Non-Commercial licence because it "permits its re-use with the important proviso that it is made clear to users of his service that

---

<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-rpsi/>

the information his service provides may be out of date and that people should check Branch Finder in order to avoid any disappointment or frustration of arriving at a Post Office which is, in fact, no longer operational."

17. The Post Office clarified that there were essentially two reasons for its refusal to provide an Open Government Licence. The first, as explained above, is that the data is only accurate at a given point in time and that it would be detrimental to its customers to knowingly provide them with potentially inaccurate data without also warning them to check on Branch Finder (for the most up-to-date data).
18. Secondly, the Post Office suggested that the complainant's request was not valid under the RPSI because the re-use which he intends to put the data is "manifestly devoid of any novelty" which would qualify as "*a purpose other than the initial purpose within that public sector body's public task for which the document was produced*" as required by regulation 4.
19. The Commissioner has considered the Post Office's arguments and has dealt first with its second point as to whether the complainant has made a valid request for re-use. Regulation 4 of the RPSI provides that:
  - 4.—(1) *Subject to paragraph (2), re-use means the use by a person of a document held by a public sector body for a purpose other than the initial purpose within that public sector body's public task for which the document was produced.*
  - (2) *Re-use shall not include—*
    - (a) *the transfer for use of a document within a public sector body for the purpose of carrying out its own public task; or*
    - (b) *the transfer for use of a document from one public sector body to another for the purpose of either public sector body carrying out its public task.*
20. The Commissioner asked the complainant to comment on what his intended purpose was in re-using the information. In response he clarified that his intended purpose was distinct from the purpose for which the Post Office initially produced the branch finder data. He explained that he had no intention of using the information to set up a similar branch finder service. Rather, he referred to his request where he made it clear that his purpose for re-using the information was "(a) to help improve the mapping of Post Office branches in OpenStreetMap, and (b) to make a consolidated dataset available to others in a reusable electronic form under an open licence."

21. The complainant argued that neither of these purposes were part of the “initial purpose” for which the Post Office produced their branch finder information since the Branch Finder tool does not help improve the mapping of Post Office branches in OpenStreetMap and in no way does it make a consolidated and complete dataset available to others in a reusable electronic form. Indeed, he suggested that the Post Office’s efforts to prevent such re-use was strong evidence that his intended use was not within the initial purpose for which it prepared the data. The complainant explained how mapping in OpenStreetMap would allow more detailed and powerful analyses of the data when combined with the data already included in OpenStreetMap. For example, the data could be used he said, as part of a UK wide analysis comparing post office locations to other convenience shops, public transport links and population density.
22. The Commissioner has considered the competing arguments and is satisfied that the complainant has made a valid request for re-use and that his intended re-use is distinct from the initial purpose for which the Post Office created the information. In her view it is clear that the information when incorporated into OpenStreetMap will be able to be used and exploited in a number of different ways rather than just providing details about different Post Office locations as per the Branch Finder tool. The Post Office’s interpretation appears overly restrictive and contrary to the intention of the EU Directive, which the RPSI implement, to encourage the implementation of public sector information resources.
23. The Commissioner has now gone on to consider the Post Office’s other reason for allowing re-use under the Non-Commercial Government Licence rather than the Open Government Licence. As the Commissioner understands it, this is essentially that the Post Office is concerned that information when made available outside of its Branch Finder tool will quickly become inaccurate and that the Non-Commercial licence will require the complainant to include a disclaimer explaining this and redirecting people to the Branch Finder for up-to-date information.
24. The Commissioner has compared the two licences and notes that both the Non-Commercial and Open Government Licences require an attribution to the source of the information as follows:

*“You are free to:*

- *copy, publish, distribute and transmit the Information;*
- *adapt the Information;*



- *exploit the Information commercially and non-commercially for example, by combining it with other Information, or by including it in your own product or application.*

*You must (where you do any of the above):*

- *acknowledge the source of the Information in your product or application by including or linking to any attribution statement specified by the Information Provider(s) and, where possible, provide a link to this licence;*

*If the Information Provider does not provide a specific attribution statement, you must use the following:*

*Contains public sector information licensed under the Open Government Licence v3.0."*

25. The Commissioner also notes that the Open Government Licence contains the following disclaimer:

*"The Information is licensed 'as is' and the Information Provider and/or Licensor excludes all representations, warranties, obligations and liabilities in relation to the Information to the maximum extent permitted by law.*

*The Information Provider and/or Licensor are not liable for any errors or omissions in the Information and shall not be liable for any loss, injury or damage of any kind caused by its use. The Information Provider does not guarantee the continued supply of the Information."*

26. Whilst the above does not specifically state that a user of information should seek regular updates, the Commissioner considers that it does make the user aware that the information may not be up to date and accurate. She therefore considers that it is unnecessarily restrictive to only permit re-use under the Non-Commercial licence, rather than under the Open Government Licence, in order to avoid incorrect data being re-used when there are relevant caveats contained within the Open Government Licence. The Non-Commercial licence offers no more protection than the Open Government Licence and so on the basis of the Post Office's arguments there seems to be no reason for making this restriction on re-use.
27. Taking all of the above into consideration, the Commissioner has decided that the council has breached regulation 12(2) of RPSI by unnecessarily restricting the way in which a document can be re-used.

## **Regulation 8 – Responding to a request for re-use**

28. Regulation 8(1) of RPSI provides that a public sector body must respond to a request for re-use promptly and in any event before the end of the twentieth working day beginning with the day after receipt.
29. Regulation 8(2) does, however, permit a public sector body to extend the period for responding to a request where the documents requested are extensive in quantity or if the request raises complex issues, by such time as is reasonable in the circumstances.
30. In this case the complainant made his request on 23 October 2015 but the Post Office did not provide a substantive response until 14 March 2016.
31. The Commissioner has issued guidance on the 'Time limits for compliance under the Freedom of Information Act (Section 10)'.<sup>2</sup> Although this guidance relates to responding to requests made under the FOIA, given that the wording of regulation 8(1) of RPSI is substantially similar to the wording of section 10 of the FOIA, the Commissioner considers that the guidance can be taken into account when making a decision relating to the time limits for responding to a re-use request.
32. Under FOIA, a public authority in receipt of a request may extend the time limit to respond from 20 working days until "such time as is reasonable in the circumstances" where it needs further time to consider the public interest test. The Commissioner's guidance on this point suggests that a reasonable extension would be a further 20 working days.

*"The Act does not define what might constitute a 'reasonable' extension of time. However, our view is that an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days. An extension beyond this should be exceptional. Examples of such circumstances could include extreme pressures placed on the public authority by a major incident or exceptional levels of complexity involving a number of external parties.*

---

<sup>2</sup> <https://ico.org.uk/media/for-organisations/documents/1165/time-for-compliance-foia-guidance.pdf>



*Public authorities will need to demonstrate that the length of any time extension is justified."*

33. The Post Office provided the following explanation of the reasons for the delay in responding to the request.

*"The delay in responding to [the complainant] was caused by Post Office's activity in reviewing the material available to customers using the internet to obtain up to date information about Post Office branches. Some of these complex processes included the review of internal data processing, liaison with a range of functions around the business and seeking to understand and develop technical matters relating to the handling of the information which involved external third parties. The timescales of this review and the complex issues it involved prevented Post Office from responding within 20 working days and led to Post Office taking over 3 months to provide a substantive response. The review was ongoing at the time that [the complainant]'s request for an internal review was received and also led to delays in conducting the internal review.*

*Ensuring that customers using the internet have the most up to date information about Post Offices is a long-term on-going project for Post Office. As Post Office was undergoing a review involving complex issues, it was not possible to respond to [the complainant] more promptly."*

34. On the basis of what she has been told by the Post Office the Commissioner is not satisfied that the issues raised by the request are sufficiently complex to justify responding outside of the 20 working day limit. The information was already publicly available and so the only question that the Post Office really needed to consider was how to licence re-use. In any event though, the time taken by the Post Office to consider the request was not reasonable regardless of the issues raised or the number of documents requested. It took almost 5 months for the Post Office to respond and the Commissioner, mindful of her guidance on time limits under FOIA, finds that this is clearly unreasonable and that consequently the Post Office breached regulation 8.

### **Regulation 17 – Internal complaints procedure**

35. The complainant has also complained that the Post Office failed to complete an internal review of its handling of the request within a reasonable time. Internal reviews are covered by regulation 17 of RPSI which provides that:

*17.—(1) A public sector body must establish an internal complaints procedure for determining complaints relating to its compliance with these Regulations*

*(2) A person who believes that a public sector body has failed to comply with any requirement of these Regulations may complain in writing to the public sector body in accordance with its internal complaints procedure.*

*(3) A public sector body must determine any complaint made under paragraph (2) within a reasonable time and thereafter notify the person of its determination without delay.*

*(4) Notification under paragraph (3) must be in writing and give reasons for the determination.*

36. The complainant has complained about the length of time the Post Office took to complete the internal review. The complainant in fact asked the Post Office to complete an internal review on two different occasions. The first was when he had failed to receive a response within the time limit and secondly when he was dissatisfied with Post Office's response which he received on 14 March 2016. The Post Office presented the findings of its internal review on 11 May 2016.
37. RPSI does not say what might be a reasonable time to complete an internal review and so once again the Commissioner finds it helpful to refer to her approach under FOIA. Internal reviews are not a statutory requirement under FOIA but the Commissioner's long standing position is that where a public authority does undertake an internal review a reasonable time for completing it is 20 working days and in no case should the total time taken exceed 40 working days.
38. The Post Office presented the findings of its internal review within 40 working days (allowing for bank holidays) of the complainant's second request for an internal review and the Commissioner is satisfied that this was reasonable in the circumstances. However, as the Commissioner noted above, the complainant also asked the Post Office to carry out an internal review on 28 January 2016 because he was not happy with the length of time it was taking to respond to his request. This complaint was not addressed until the internal review on 11 May 2016. This clearly exceeds 40 working days and as such the Commissioner finds that the Post Office breached regulation 17(3).

## Regulation 11 – Format of documents

39. The complainant has also complained that the Post Office has failed to make the information available for re-use in one of the formats required by regulation 11. Regulation 11 provides that:

*11.—(1) A public sector body must make a document available to an applicant under regulation 8(4)(b) or (c)—*

*(a) in the format and language in which it is held on the date of the request for re-use; and*

*(b) where possible and appropriate, in open format and machine-readable format together with its metadata.*

*(2) The format and the metadata referred to in paragraph (1)(b) should, insofar as possible, comply with formal open standards.*

*(3) Where possible and appropriate, a public sector body must make a document available for re-use by electronic means.*

40. The complainant had argued the Post Office had failed to comply with this part of the RPSI because it had not provided the information available in a machine readable format (such as a CSV file) or at the least, had not disclosed the information in the form in which it would have been held at the time of the request which he suggested would be some form of database. The Commissioner asked the Post Office to respond to this aspect of the complaint and to confirm what format the information was held when the request was received.
41. In response the Post Office said that the Branch Finder data is taken from a Master Data Management system (which comprises the processes, governance, policies, standards and tools that consistently define and manage the critical data of the organisation to provide a single point of reference), and remains in that format.
42. The Post Office did not say why it was not possible to provide the information in an open and machine readable format such as a CSV file. The Commissioner is aware that the Post Office already makes some information available in an open format and so it is unclear why it was unable to provide the information in the format requested by the complainant.<sup>3</sup> In the absence of any further argument from the Post

---

<sup>3</sup> <http://corporate.postoffice.co.uk/modernising-post-office>

Reference: FS50630368



Office the Commissioner must find that it has failed to comply with regulation 17.

## Right of appeal

---

43. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

44. 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.
45. 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** .....

**Gerrard Tracey**  
**Principal Adviser**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**