

Freedom of Information Act 2000

Decision notice

Date: 30 November 2015

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information relating to the Queen's Christmas Broadcasts (also known as the Queen's Christmas Speech). The Cabinet Office denied holding any relevant information. During the course of the Commissioner's investigation the Cabinet Office sought to refuse the request under section 12 of the Freedom of Information Act 2000 (the Act) because compliance with the request would exceed the appropriate cost limit. The Cabinet Office later withdrew this argument and reverted to its original position that the information was not held.
2. The Commissioner's decision is that on the balance of probabilities the Cabinet Office is unlikely to hold any requested information. No steps are required.

Request and response

3. On 28 August 2014, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I would like to request the following information under the Freedom of Information Act.

...

Please note that the reference to the Cabinet Office below should be taken to include the Cabinet Office, the Prime Minister's Office and those sections of Downing Street which would be involved in the preparation of the Queen's Christmas Broadcast.

Please note that I am interested in each and every broadcast stretching back to 1952.

1. Does the Cabinet Office hold documentation which lists those private individuals who over the years have been asked to help with the writing of the Queen's Christmas broadcasts.

These individuals will include but will not be limited to academics, historians, broadcasters, constitutional experts, business leaders, broadcasters, charity workers, actors, entertainers and film makers. Please note I am not interested in those individuals who are and or were members of the Royal Family, officials of the Royal Household, civil servants or the serving Government of the day.

2. If the answer to the question is yes can you please provide a list of individuals who have helped with the writing of the Queen's Christmas Broadcast?

3. In the case of each individual can you please provide the details of the actual broadcast(s) they assisted on.

4. In the case of each individual and each of their broadcasts can the Cabinet Office please provide copies of all correspondence and communications including emails with the appropriate individuals.

5. In the case of each individual and each of their broadcast(s) can you please supply copies of all documentation held by the Cabinet Office."

4. The Cabinet Office responded on 17 September 2014 and denied holding any relevant information. This was upheld in the Cabinet Office's internal review of 1 December 2014.

Scope of the case

5. The complainant contacted the Commissioner on 17 December 2014 to complain about the way his request for information had been handled.
6. During the course of the Commissioner's investigation the Cabinet Office sought to cite section 12 of the Act as the basis for refusing the request, although this was later withdrawn.
7. The Commissioner considers the scope of the case to be whether the Cabinet Office holds information relevant to the complainant's request. He will also consider the Cabinet Office's citation of section 12 of the Act.

Reasons for decision

Section 12 – cost of compliance exceeds appropriate limit

8. Section 12 of the Act states:

"(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit."

9. The appropriate limit is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (Fees Regs). For central government bodies such as the Cabinet Office the limit is defined as £600. The Fees Regs permit public authorities to charge £25 per hour for the following activities:

(a) determining whether it 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.

At a rate of £25 per hour the appropriate limit is equivalent to 24 hours of work for central government bodies such as the Cabinet Office.

10. The Cabinet Office cited section 12(2) of the Act during the course of the Commissioner's investigation. It considered that to confirm whether any relevant information was held would exceed the appropriate cost limit. This essentially means that it would take longer than 24 hours to determine if the information is held.

11. In its submissions to the Commissioner the Cabinet Office split its response based on the different searches that were carried out to identify the relevant information. Any relevant information from 1 January 1985 onwards would have been retained in the Cabinet Office's records at the time of the request, whereas anything from 1952 to 1984 would have been moved to The National Archives (TNA).

12. The Cabinet Office explained that all information relating to the Queen's Christmas Broadcast from 1 January 1985 onwards was located and studied by a member of its staff. Searches were carried out through the Cabinet Secretary's, Prime Minister's and Economic and Domestic Affairs Secretariat records using search terms of its electronic lists that were reasonable (e.g. Queen's speech, Queen's broadcast etc.). The Cabinet Office confirmed that whilst it does hold information relating to the broadcasts, there is nothing that comes within the specific scope of the complainant's request. The Commissioner has reviewed the details of what information is held and is satisfied that none of it comes within the scope of the complainant's request.
13. For information from 1952 to 1984, the Cabinet Office stated that this information would have been moved to the National Archives (TNA) as per the 30 year rule established in the Public Records Act 1958. However, the Cabinet Office explained that information is reviewed prior to be it being moved to TNA, and that in some cases information is retained by the Cabinet Office. The information that is retained is stored in hard copy, and the Cabinet Office stated that there were approximately 500 boxes containing the retained information. The Cabinet Office had argued that determining whether any relevant information was in the 500 boxes would exceed the appropriate cost limit.
14. The Commissioner made further enquiries about the 500 boxes and the Cabinet Office withdrew its reliance on section 12(2). The Cabinet Office confirmed that during the course of the investigation it had undertaken some archiving of some of the materials within these boxes and was now confident that no relevant information was held within them.

Section 1 – information not held

15. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner, in accordance with a number of First-Tier Tribunal decisions, applies the civil standard of the balance of probabilities.
16. The Cabinet Office's second batch of submissions provided new details on the information kept within its records. It clarified that it was now satisfied that there was no relevant information within the 500 boxes referred to previously.
17. Whilst the Cabinet Office did hold information relating to the Queen's Christmas Broadcast for the period in question, the Cabinet Office stated that there was nothing which came within the specific scope stated in the complainant's request. The request is very clear on the types of

individual whom would come within the scope, and equally clear on which types should be excluded.

18. For information from 1952 to 1973, the Cabinet Office stated that these files had been moved to The National Archives (TNA) and could be found under the following reference numbers:
 - PREM 11/4443 (1952 – 1963)
 - PREM 13/2899 (1964 – 1969)
 - PREM 15/1880 (1970 – 1973)

The Cabinet Office confirmed no further relevant information was still retained relating to these periods.

19. For information from the period 1974 – 78, the Cabinet Office stated that the file was reviewed in 2008 and not selected for permanent preservation. The Cabinet Office stated further that the file had been destroyed in line with its standard practice.
20. For all information from 1979 onwards, the Cabinet Office informed the Commissioner that the various files in hard copy were inspected by the case's action officer and there was nothing that came within the specifics of the complainant's request. The Cabinet Office reiterated the searches of its electronic lists for the Prime Minister's records, those of the Cabinet Secretary, and those of the Economic and Domestic Affairs Secretariat, as these were the appropriate location for any relevant information. The Cabinet Office confirmed that no relevant information was held.
21. The Cabinet Office also stated that it has no formal involvement in the preparation of the Queen's Christmas Broadcast, whether with private individuals or otherwise, and so there was no practical reason why the information would be held.
22. In the Commissioner's view the Cabinet Office has provided a detailed response about how information of this type is contained within its records, and of the searches that have been carried out to identify any relevant information. The Commissioner is satisfied that the Cabinet Office's arguments are reasonable.
23. The Commissioner's decision is that on the balance of probabilities it is unlikely that information relevant to the complainant's request is held by the Cabinet Office.

Right of appeal

24. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

25. 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.
26. 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
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