

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 June 2016

Public Authority: The British Museum
Address: Great Russell Street
London
WC1B 3DG

Decision (including any steps ordered)

1. The complainant has requested information from the British Museum ("the Museum") relating to advice given to the Museum by British Petroleum ("BP") in relation to the management of protests. The complainant was satisfied with the information provided in response to parts 1 to 3 of the request, but believed that further information was held in response to part 4.
2. The Commissioner's decision is that the Museum does not hold the information relating to part 4 of the request.
3. The Commissioner requires the Museum to take no steps.

Request and response

4. On 7 October 2015, the complainant requested information from the Museum relating to any communications it received from BP relating to the Museum's management of protests. The complainant also requested details of when and how this communication from BP took place, and the specific event or concern it was related to.
5. In its response to this request the Museum stated that it had received information from BP, but held no recorded information about when or how this information was communicated, or which specific event or concern it related to.
6. Therefore, on 18 January 2016 the complainant requested information of the following description:

"Under the Freedom of Information Act 200, I request that you disclose the following information.

- 1. Were members of staff from the British Museum invited to attend a 3-hour "Security Session" on the 12th February 2015, hosted by BP at the company's offices? If so please disclose copies of any relevant correspondences between BP and the British Museum in relation to this session.*
- 2. Were members of staff from the British Museum invited to attend a meeting BP's Security Team at BP's offices in St. James's Square London on Tuesday 3rd February 2015? Did any members of British Museum staff attend this meeting and if so, please indicate how many and the roles(s) of those staff members that attended? Please also disclose copies if any relevant correspondence between BP and the British Museum in relation to this meeting.*
- 3. Have any members of BP's security team or personnel had any involvement in the management of or been present at, events taking place at the British Museum in 2013-2015?*
- 4. The British Museum Security Department received information from BP relating to potential protests at the Museum in the period 2012 to 2015 but did not record when and how this information was communicated or the event or concern it was in relation to.*

Given that it is not known when and how the communication of information was made, I request that a clarification is made as to how it was ascertained that BP had communicated information to the British Museum in relation to the management of protests at the museum."

7. In point 4 of his request the complainant asked the Museum to clarify its response to the information request of 7 October 2015.
8. On 15 February 2016 the Museum responded to the information request. The complainant was satisfied with the information he received in relation to parts 1 – 3. However, he remained dissatisfied with the Museum's response to part 4 of his request.
9. With respect to point 4 of the complainant's request, the Museum stated:

"...4. There are no records of any communication having taken place between the Museum and BP on potential actions..."
10. On 18 February 2016 the complainant requested an internal review of the Museum's response to his information request. In particular the

complainant asked the Museum to reconsider its response to point 4 of his request as it had not provided any clarification, but had in fact made the matter even less clear. The complainant therefore felt that the Museum's response was inadequate.

11. On 22 March 2016 the Museum sent the complainant a response to his request for an internal review. In its response it upheld the original response to the complainant's information request and provided no further clarification on the issue.

Scope of the case

12. The complainant contacted the Commissioner on 13 April 2016 to complain about the way his request for information had been handled. Specifically he was unhappy that the Museum had not confirmed how it had ascertained that BP had communicated information to it in relation to the management of protests if there were no records of any communication taking place between the two organisations.
13. The Commissioner contacted the Museum on 6 June 2016 and advised it of the complaint he had received. He asked the Museum to confirm how it had ascertained that BP had communicated information to it in relation to the management of protests if there were no records of any communication taking place between the two organisations.
14. Following this, the Museum wrote to the Commissioner on 14 June 2016 stating that it had ascertained that BP had communicated information to it about the management of protests through unrecorded information. Specifically, communications between members of the Museum's security personnel and BP were conducted by telephone only. No records, notes or transcripts of these calls were kept.
15. The Commissioner has therefore had to consider whether the Museum holds any information falling within the scope of part 4 of the request.

Reasons for decision

16. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled:-

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*

- (b) *if that is the case, to have that information communicated to him".*
17. 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 may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
 18. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
 19. The Museum explained that all communication between BP and the Museum about the management of protests took place over the telephone. The Museum's Head of Security and Visitor Services and the Head of Security Operations confirmed these communications from personal memory.
 20. The Museum explained that neither the Head of Security and Visitor Services nor the Head of Security Operations recall the precise nature of the conversations, the number of calls or the date and time or the length of such calls. They confirmed that these conversations were likely to have been about various operational matters concerned with known events at the Museum in which there was BP involvement and how these may potentially impact on the Museum's activities and on the security of its staff, its collection and visitors to the Museum.
 21. Based on the Museum's submissions, the Commissioner is satisfied that on the balance of probabilities, the information sought in part 4 of the request is not held by the Museum.

Other Matters

22. The complainant has argued that the Museum's response to part 4 of his request was contradictory and that it failed to provide clarifications.

The Commissioner finds that the Museum's response was in accordance with section 1, but considers it would have been good practice for the Museum to have been more explicit and directly address the complainant's concerns.

Right of appeal

23. 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

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

24. 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.
25. 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

Rachael Cragg
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