

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations (2004)**

Decision notice

Date: 20 July 2021

Public Authority: Department for Environment, Food
and Rural Affairs

Address: Nobel House
17 Smith Square
London
SW1P 3JR

Decision (including any steps ordered)

1. The complainant has requested communications between HRH the Prince of Wales and John Prescott. The Department for Environment, Food and Rural Affairs (Defra) has advised that it does not hold this information.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, Defra does not hold the requested information. As such, Defra complied with its duty under regulation 5(1) of the EIR by virtue of the exception at regulation 12(4)(a) (information not held).
3. The Commissioner does not require Defra to take any remedial steps.

Request and response

4. On 9 May 2020 the complainant wrote to Defra and requested information in the following terms:

Please note that I am only interested in information generated between 8 June 1999 and 8 June 2000.

Please note that the reference to HRH The Prince of Wales in the questions below should include the Prince himself, his Principal Private Secretary(ies), any other private secretary and anyone in his private office able to correspond on his behalf.

Please note that the reference to John Prescott should include Mr Prescott himself, his Principal Private Secretary(ies), any other private secretaries and anyone in his private office able to correspond on his behalf. I note that during this period Mr Prescott held a number of different posts including that of Deputy Prime Minister and Secretary of State for Environment, Transport and the regions. I am hoping that Defra will still hold the relevant material.

Please note that the reference to correspondence and communications in the questions below should include all traditional forms of correspondence and communications including letters and faxes, all emails irrespective of whether they were sent through official and private accounts and all messages sent through encrypted messaging services.

My request has been inspired by the revelation in Tony Blair's 2010 biography that HRH and Mr Prescott corresponded 'regularly' on rural matters.

I have confined the request to a particular time frame to ensure it stays within the time and cost limits laid down both by the Act and the EIRs. But if you are aware of relevant correspondence existing outside this time frame can you let me know and I will submit a new request for information.

1. During the aforementioned period did the Prince of Wales write to John Prescott about any of the following - hunting, shooting, the importance and popularity of hunting and shooting in rural areas, the problems posed by foxes and other animals classed as vermin, any private members bill on hunting, the Labour Government's proposed ban on hunting, Opposition to the ban both inside and outside Parliament, the Prince's own concerns about the ban and alternatives to the ban.

2. If the answer to question one is yes can you please provide copies of this correspondence and communication.

3. During the aforementioned period did Mr Prescott write to the Prince of Wales about any of the following - hunting, shooting, the importance and popularity of hunting and shooting in rural areas, the problems posed by foxes and other animals classed as vermin, any private members bill on hunting, the Labour Government's proposed

ban on hunting, Opposition to the ban both inside and outside Parliament, the Prince's own concerns about the ban and alternatives to the ban.

4. If the answer to question three is yes can you please provide copies of this correspondence and communication. If relevant documentation has been destroyed can you please provide the following details.

a) In the case of each piece of correspondence and communication which has been destroyed can you please identify the author (s), the recipient (s) and the date generated. Can you please state what form the correspondence and communication took. eg. Was it an email? Was it a letter?

b) In the case of each destroyed piece of correspondence and communication can you state when it was destroyed and why? In the case of each destroyed piece of correspondence and communication can you please provide a brief outline of its contents.

c) If destroyed documentation continues to be held in another form can you please provide a copy of that documentation

d) If relevant documentation has been transferred to an archive. Can you please identify the archive? Can you state when the material was transferred? Can you please provide the relevant reference numbers for the transferred material?

5. Defra responded on 8 June 2020. It relied on regulation 12(4)(a) of the EIR and advised that it does not hold the requested information.
6. Defra provided an internal review on 6 August 2020. It upheld its original response.

Scope of the case

7. The complainant contacted the Commissioner on 19 August 2020 to complain about the way his request for information had been handled.
8. The Commissioner's investigation has focussed on whether, on the balance of probabilities, Defra holds information within scope of the complainant's request.

Reasons for decision

9. Regulation 5(1) of the EIR states that "a public authority that holds environmental information shall make it available on request." This is subject to any exceptions that may apply.
10. The exception under regulation 12(4)(a) of the EIR provides that a public authority may refuse to disclose information to the extent that it does not hold that information when an applicant's request is received.
11. In its submission to the Commissioner, Defra has explained that during the requested period (8 June 1999 and 8 June 2000), it did not exist. John Prescott, at this time, was the Secretary of State for the Department of Environment, Transport and the Regions (DETR). DETR was then broken up in 2001 and the environment portfolio was merged with Ministry of Agriculture, Fisheries and Food (MAFF) to form Defra.
12. Defra has noted that the information requested is between the Secretary of State of DETR and the Prince of Wales so to start with it decided to carry out searches within the Defra Private Office. All individuals searched their inboxes, covering sent received emails. Shared depositories where electronic files could be stored were also checked within the Private Office. The search terms they used were "Prince of Wales", "Prince Charles" and "John Prescott". Defra says that as the information was historical it also consulted its Record's Management Team to search physical paper records, using the same search terms. Nil returns were recorded from all parties. Defra therefore concluded that, in all the circumstances of the case, it did not hold any information within the scope of the request.
13. Defra has also noted that the complainant requested correspondence from the private and press secretaries of the Prince of Wales and those members of staff in his private office with the authority to write and respond to correspondence and communications on his behalf.
14. However, as the complainant did not specify the names of such correspondents, Defra says it was unable to search for them as correspondents. It says it has no knowledge of the identity of all the Prince of Wales's private staff over the relevant period and can have no knowledge of who the Prince of Wales has or has not authorised to undertake correspondence on his behalf. Defra has told the Commissioner that its searches were text-based so that if any person had mentioned in the body of their correspondence that they were writing on behalf of the Prince of Wales, then this would have been picked up in the existing searches. Defra has gone on to say that if the complainant wishes to specify other named correspondents, then it

would be willing to undertake further searches (up to the relevant cost limit) on any new information, such as names of correspondents, that he may provide.

15. Defra also confirms in its submission that its formal records management policy states that general correspondence should be stored for seven years from the date it is last modified and then deleted.

The Commissioner's conclusion

16. The Commissioner has noted the complainant's view that, given that Tony Blair says in his autobiography that with reference to rural affairs the Prince of Wales and John Prescott were regular correspondents, Defra is "highly likely" to hold information relevant to his request.
17. However, the Commissioner has also noted the circumstances that existed during the time period covered by the complainant's request: 1999-2000. Namely, that Defra did not exist, with the relevant government bodies being the Department for Environment, Transport and the Regions and the Ministry of Agriculture, Fisheries and Food. These two bodies subsequently merged to form Defra after 2001. Defra has nonetheless carried out searches for relevant information it may hold and has found none. The Commissioner considers that Defra has searched the email accounts and the paper and electronic files of appropriate teams using appropriate search terms. Given that Defra did not exist between June 1999 and June 2000, that Defra's records policy states that general correspondence should be stored for seven years from the date it was last modified and then deleted, and the appropriateness of Defra's searches, the Commissioner is satisfied that, on the balance of probabilities, Defra does not hold the information the complainant has requested and is entitled to rely on the exception under regulation 12(4)(a) of the EIR.
18. The Commissioner agrees with Defra that it cannot be expected to know who the Prince of Wales' private staff were in 1999 to 2000 and who the Prince of Wales may have authorised to correspond on his behalf, before it existed as a Department. As such, the Commissioner is satisfied that the text-based searches it undertook were adequate. She notes that Defra has advised that if the complainant is able to provide it with names of specific correspondents, it is willing to undertake further searches.

Right of appeal

19. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

20. 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.
21. 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

Cressida Woodall
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