

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2022

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information from Cabinet Office ("CO") relating to the former Prime Minister's family pet dog, Dilyn. The CO confirmed they did not hold any relevant information.
2. The Commissioner's decision is that, on the balance of probabilities, CO does not hold the requested information.

Request and response

3. On 26 May 2021, the complainant wrote to CO and requested information in the following terms:

"Can you please provide any electronic correspondence containing the word "Dilyn" either sent to or from the team/individuals in the Number 10 press office. I am only interested in correspondence between 5th March 2020 to 19th of March 2020 inclusive."
4. CO responded on 24 June 2021. It stated that it did not hold information about Dilyn.
5. On the same day, the complainant requested an internal review in which they stated:

"Can you please tell me:
 1. Which specific electronic sources were searched (for example, but not limited to, departmental email, personal email accounts, whatsapp, SMS etc.).

2. If the search did not include backup servers, can you please explain why.
 3. What was the mechanism for conducting the search (for example did an IT administrator conduct a search, or were individual end users asked if they held relevant information)?
 4. If the answer to Question 3 above includes individual end users, how many individual users were asked if they held information, and how many responses were received back?"
6. CO responded to the internal review request on 11 November 2021 and upheld its original position.

Reasons for decision

7. This reasoning covers whether CO stated correctly that it does not hold any information falling within the scope of the complainant's request.
8. In their internal review, the complainant wanted to know the nature of searches carried out by CO in response to their request. The CO explained that appropriate exhaustive searches had been conducted and confirmed that it did not hold any recorded information about the former Prime Minister's dog, Dilyn.
9. In their complaint to the Commissioner, the complainant raised concerns about the follow-up questions to CO which was treated as an internal review request. These follow-up questions were to satisfy the complainant that the searches conducted were exhaustive. However the complainant argued that the response received from CO did not answer their specific questions and that in their view, a conflict of interest occurred when the CO representative determined that exhaustive searches were carried out.
10. The Commissioner has explained that any expression of dissatisfaction with a public authority's response to an information request, can and should be treated as a request for internal review by the public authority. The Commissioner notes that the questions posed were not new requests for information and therefore he is satisfied that CO were right to treat the complainant's correspondence of 24 June 2021 as a request for internal review.
11. Concerning the complainant's view surrounding the searches carried out by CO, the Commissioner expects that searches carried out by public authorities are appropriate and thorough. That is to say that, a public authority will not be expected to search all of its filing cabinets or computers before determining that information is not held. However it should search those areas where it is reasonable to find the information,

if it existed. It is not for the complainant to determine whether CO's searches are exhaustive. The Commissioner does not investigate cases to this standard, instead he expects that all reasonable searches are conducted by a public authority. Hence, whilst it was open for CO to answer the questions posed, in their internal review response, they were under no obligation to do so. On this basis the Commissioner asked the complainant to consider withdrawing their complaint as he did not consider that CO held the information sought.

12. The complainant refused to withdraw their complaint and requested a decision notice to be issued by the Commissioner. They also stated that they believed information relating to Dilyn was held by the Press Office due to a statement made in parliament by the former Prime Minister's ("PM") chief advisor, Dominic Cummings that "the PM's girlfriend was going completely crackers about this story and demanding that the press office deal with that", together with newspaper articles suggesting the PM's girlfriend diverted Number 10 resources to prioritise a story about their dog.
13. CO has provided its further submissions to the Commissioner in which they explained that searches were conducted by Number 10 Press Office for electronic correspondence containing the word Dilyn. However they confirmed that they did not hold any recorded information. It further explained that the Prime Minister's office does not utilise email accounts for the long-term preservation of information due to a 90-day retention policy. If any information had been held within email accounts, it would have been automatically deleted before the applicant's request was received. Any information older than three months which needed to be retained for official records would have been saved and filed within corporate files outside of email accounts.
14. Further searches were conducted within relevant files when handling the internal review request and no information in scope was identified. It added that, the Press Office team explained, as part of this investigation, that it would be unlikely for there to have been any significant amount of correspondence regarding Dilyn. Furthermore, this information, if held, would have been deemed ephemeral and not captured for preservation, as it does not relate to Government business.
15. The Commissioner accepts CO's explanation and on this basis, his conclusion is that on the balance of probabilities, CO does not hold the requested information.
16. The Commissioner does not require the public authority to take any further steps.

Other matters

17. The Commissioner would note that under Section 50(2)(c) of FOIA, he is not required to make a decision in respect of a complaint that is frivolous. (i.e. lacking a serious purpose) and this provision needs to be borne in mind when submitting complaints to the ICO about public authority responses.

Right of appeal

18. 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

19. 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.
20. 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

Esi Mensah
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