

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 February 2024

**Public Authority:** Cabinet Office

**Address:** 70 Whitehall  
London  
SW1A 2AS

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to meetings attended by Carrie Johnson (née Symonds) during the period 15 April 2020 and 15 June 2020.
2. The Commissioner's decision is that, on the balance of probabilities, the Cabinet Office does not hold information within scope of the request.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 22 December 2021, the complainant wrote to the Cabinet Office and requested information in the following terms:

"The number of official government meetings attended by Ms Carrie Symonds, (for avoidance of doubt, the Prime Minister's spouse) during the period 15<sup>th</sup> April 2020 and 15<sup>th</sup> June 2020.

- A breakdown of the number which were in an official capacity, and which were in an unofficial capacity,

- The role in which she attended in, (e.g. an advisor/communications officer/Prime Minister's Wife etc?)
  - Whether Ms Symonds attended in paid capacity.
  - The capacity and role in which she attended the Prime Minister's work meeting in the early evening of 15<sup>th</sup> May 2020."
5. The Cabinet Office responded on 25 January 2022 stating that it did not hold the requested information.
  6. Following an internal review the Cabinet Office wrote to the complainant on 29 April 2022 upholding its original decision.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 20 May 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, the Cabinet Office holds information in relation to the request.

### **Reasons for decision**

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#### **Section 1 – general right of access**

9. Section 1 of FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to them if it is not exempt information.
10. In cases where a dispute arises over whether recorded information is held by a public authority at the time of the request, the Commissioner - following the lead of a number of First-tier Tribunal decisions - applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is more likely than not that the public authority holds information relevant to the complainant's request

#### **The Cabinet Office's position**

11. The Cabinet Office first clarified that Mrs Carrie Johnson (née Symonds) did not hold official status by virtue of being the Prime Minister's spouse. They also confirmed that she did not receive a salary or carry out official

duties. Whilst the ministerial spouses are occasionally permitted to be paid travelling expenses by virtue of the ministerial code, this is only in instances where it is clearly in the public interest that he or she should accompany the Minister.<sup>1</sup>

12. The Cabinet Office explained to the Commissioner that the complainant has requested information about attendance at meetings in both an official and unofficial capacity and confirmed that the Cabinet Office does not take records of unofficial meetings. It explained that where a record of a meeting is taken, it shall be a meeting to discuss official business and due to Mrs Johnson not having official status, she did not attend any such meetings.
13. The Cabinet Office stated that it notes that the complainant's request referred to a meeting on 15 May 2020 and explained that the circumstances of that meeting are described in the report of the (former) Second Permanent Secretary in May 2022 which states:

"At a table on the terrace, the Prime Minister, Martin Reynolds (his Principal Private Secretary), and Dominican Cummings (his senior advisor) were continuing a lengthy meeting that had started in the Prime Minister's office, before moving to the garden around 18:00... The outdoor part of the meeting lasted for 40 minutes to an hour and they were briefly joined by the Prime Minister's wife, during which time the photograph was taken. Martin Reynolds subsequently returned to the office to continue working. The Prime Minister remained in the garden until around 19.20."
14. The Cabinet Office stated that it considers it is apparent from the statement above that Mrs Johnson joined the meeting attendees at an informal juncture of that meeting, outside of regular office hours. It also explained that as the (former) Second Permanent Secretary observed, her presence was brief. It also stated that it is a matter of fact that, alongside hosting a working Government office, the Downing Street estate serves as a private residence to the Prime Minister, Chancellor of the Exchequer and their respective families and that this extends to the garden.
15. The Cabinet Office explained that no searches for the information were carried out as there is no specific document that would record the information if it existed and it is known that Mrs Johnson did not attend

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<sup>1</sup> [2022-12-22 Ministerial Code Final.docx \(publishing.service.gov.uk\)](#)

official meetings. It explained that she did not, for example, have an official diary the Cabinet Office could reference and nor did she need to.

16. During the Commissioner's investigation he wrote to the Cabinet Office asking whether anyone would be able to attend official meetings in an unofficial capacity.

17. The Cabinet Office responded stating the following:

"...10 Downing Street is a Government building and it therefore hosts (a) meeting that discuss business of the Government. Such meetings are official meetings. However, it may also host (b) meetings which relate to party politics in view of the fact that (at the time) the Prime Minister (Boris Johnson) was also Leader of the Conservative and Union Party. It may also host (c) meetings which are purely social in character, which is reflective of the fact that 10 Downing Street is also the residence of the Prime Minister and their spouse."

"The Cabinet Office only holds information that falls within the scope of category (a). In view of the fact that, as referred to above, 10 Downing Street is also an official residence, there is the potential for a meeting which falls within category (a) to be interrupted by those who are residents of 10 Downing Street which would temporarily make the meeting one within category (c) before they departed and the meeting becomes category (a) again. The occurrence on 15 May 2020 referred to in the former Second Permanent Secretary's report is one such instance. The resident (i.e. Mrs Johnson) has not become an attendee of an official meeting by virtue of them interrupting that meeting. They live there."

18. The Commissioner also wrote to the Cabinet Office stating that although it had stated that Mrs Johnson, not having official status, did not attend any such meetings, it does not automatically follow that she did not attend those meetings in an unofficial capacity.

19. The Cabinet Office responded to the Commissioner point stating:

"We observe that the distinction between 'official' and 'unofficial' attendance is one that has been established by the requester in their request. It is not the characterisation of the Cabinet office. Any person who attends a meeting to discuss official government business does so officially. It is not possible to attend on an 'unofficial' basis. There is no such status. In stating that 'it does not take records of unofficial meetings', the Cabinet Office was referring to meetings which fall outside category (a) above (i.e. in the discussion of the government business).

20. The Cabinet Office also clarified that there may be ad hoc and informal meetings which take place in the conduct of official business which are recorded. That would not render them 'unofficial' however.

### **The complainant's position**

21. In her complaint to the Commissioner, the complainant explained that she found it difficult to believe that the Cabinet Office would not have the information requested and it would suggest it does not know who has attended a meeting, nor why. She argued that the conclusion from the Cabinet Office's response is that Mrs Johnson has attended sensitive official meetings without them knowing when or why and she believes clarifying this seemingly worrying situation is very much in the public interest.

### **The Commissioner's position**

22. The Commissioner recognises the complainant's concerns, however there is no requirement for information to be created to respond to a request for information. A public authority cannot provide information that it does not hold. Additionally, a public authority does not need to change the way in which it records information to comply with FOIA.
23. The Commissioner has considered the explanations provided by the Cabinet Office and it is his view that, on the balance of probabilities, the Cabinet Office does not hold any information falling within the scope of the complainant's information request. The Commissioner is therefore satisfied that the Cabinet Office has complied with section 1(1)(a) of FOIA.

## Right of appeal

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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

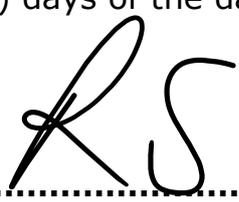
Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

**Robyn Seery**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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