

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 February 2024

Public Authority: Cabinet Office
Address: 1 Horse Guards Road
London
SW1A 2HQ

Decision (including any steps ordered)

1. The complainant requested copies of videos of mock press conferences. The Cabinet Office stated that the information was not held.
2. The Commissioner's decision is that the requested information was not held by the Cabinet Office
3. The Commissioner does not require any steps.

Request and response

4. On 19 December 2021 the complainant made the following information request to the Cabinet Office:

"I refer to the recording of the rehearsal mock press conference from which extracts have recently been leaked and in which Allegra Stratton made remarks including 'This fictional party was a business meeting and it was not socially distanced'.

1. Please send me a copy of the recording of the entire mock press conference.
2. Please send me copies of recordings of all other mock press conferences held in the Downing St press briefing room between 9 October 2020 and 9 April 2021."

5. The Cabinet Office responded to the request on 19 January 2022 stating the information was not held.
6. The complainant requested an internal review on 20 January 2022.
7. He then contacted the Commissioner on 27 April 2022 as he had not received an internal review response.
8. The Commissioner contacted the Cabinet Office on 16 May 2022 asking that it carry out an internal review. The Cabinet Office responded to the Commissioner the following day providing a copy of its internal review outcome, which was dated 13 May 2022. The internal review upheld the original response that the requested information was not held.

Scope of the case

9. Following receipt of the internal review, the complainant contacted the Commissioner further disputing the Cabinet Office's position that the information was not held.
10. The scope of the case is for the Commissioner to determine whether the Cabinet Office held the requested information at the time of the complainant's information request.

Reasons for decision

Section 1 of the FOIA – Information held / not held

11. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to them.
12. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
13. The Cabinet Office responded to the Commissioner's enquiries by stating that the *"mock press conference recordings were hosted by a temporary engineer company on the video hosting and sharing website Vimeo."*

14. On the issue of whether the videos were held by it at the time of the request, the Cabinet Office stated that the "*videos were retained for a set period of time before the videos – and the account hosting them – were deleted on a date around 13 March 2021.*" The position of the Cabinet Office was that by the time of the complainant's information request "*the videos were no longer held and nor were they held by any person on behalf of the Cabinet Office*".
15. The Commissioner understands that the deletion of the videos was carried out by the contractor at the request of the Cabinet Office. The Cabinet Office has also informed the Commissioner that it was not possible to download the videos to the Number 10 system.
16. The Cabinet Office has been inconsistent as to whether it ever held the recordings referred to in the request. The initial response to the request was a single sentence stating that the requested information was not held. The internal review response stated that the information had never been held, but in representations to the Commissioner the Cabinet Office has referred to information having previously been held, but since deleted in line with an unspecified retention period. The Commissioner also notes that the Cabinet office referred to the deletion of information having occurred on around 13 March 2021, whilst the request specifies a time period up to 9 April 2021.
17. However, based on the Cabinet Office's statement about the Vimeo videos being deleted by the contractors prior to the request being made, the Commissioner accepts that these videos were not held at the time of the request.
18. On the issue of whether copies of the videos may have continued to be held by the Cabinet Office after the deletion carried out by the contractors, the Commissioner accepts that this was not the case due to the Cabinet Office advising that the videos could not be downloaded to the Number 10 system.
19. In the absence of any evidence to the contrary the Commissioner finds that on the balance of probability the Cabinet Office did not hold any information falling within the scope of the complainant's information request at the time of that request, and so it complied with section 1(1)(a) of FOIA when stating this.

Right of appeal

20. 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@justice.gov.uk

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

21. 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.
22. 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

Ben Tomes
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