

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 July 2024

Public Authority: Royal College of Veterinary Surgeons
Address: 3 Waterhouse Square
138-142 Holborn
London
EC1N 2SW

Decision (including any steps ordered)

1. The complainant has requested information about meetings held between the Royal College of Veterinary Surgeons ('the RCVS') and the Department for Food, Environment and Rural Affairs ('Defra') or the Animal and Plant Health Agency ('APHA') between 1 June 201 and 31 December 2021. The RCVS provided some information and advised that it didn't hold any further relevant information. The RCVS identified and disclosed further information during the course of the Commissioner's investigation.
2. The Commissioner's decision is that, on the balance of probabilities, the RCVS does not hold further information within scope of the request.
3. The Commissioner does not require further steps.

Request and response

4. On 7 November 2023, the complainant wrote to the RCVS and requested information in the following terms:

"Could I please have a copy of the following:

All documents, which include briefings, email correspondence, meeting minutes, related to meetings held between the Royal College of Veterinary Surgeons (RCVS) and Defra / APHA between June 1st 2021 and December 31st 2021.

Please send me all information relating to and including mention of myself '[NAME REDACTED]', '[NAME REDACTED]', '[REDACTED]', '[REDACTED]', '[REDACTED]', '[REDACTED]', APHA', Defra', Chief Veterinary Officer', CVO, and '[REDACTED]'."

5. The RCVS responded on 30 November 2023. It stated that there were five meetings in the requested time period between the RCVS, Defra, the British Veterinary Association, Food Standards Scotland and the Food Standards Agency but advised that there were no minutes taken. It stated that additional meetings took place during this period between the RCVS and Defra, these related to specific issues and there were also no minutes taken. The RCVS advised that it would respond to the second part of the request as a subject access request and it did so on 7 December 2023.
6. Following an internal review, the RCVS wrote to the complainant on 6 February 2024. It provided detail about the meeting dates for the five meetings it had previously mentioned. The RCVS also gave details on meeting dates and subject matter for 19 further meetings held between the RCVS and Defra or APHA in the requested time period. Again, it advised that it didn't hold any minutes or documentation for these meetings.

Scope of the case

7. The complainant contacted the Commissioner on 10 March 2024 to complain about the way their request for information had been handled.
8. During the Commissioner's investigation, the RCVS wrote to the complainant again on 24 June 2024 to advise it had carried out further searches and had identified 10 further meetings. The RCVS provided information about the date and subject matter of these meetings and also provided some documentation for previously disclosed meeting dates on 13 and 15 July 2021, and 4 August 2021.
9. The complainant wrote to the Commissioner on 12 June 2024 and 5 July 2024 to advise that they were not satisfied with the information disclosed and believed that further information was held.
10. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, the RCVS holds further information within scope of the FOIA request.

Reasons for decision

Section 1 – general right of access to information

11. Section 1 (1) 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.”

12. Section 1(1) requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If it does hold relevant information, it also requires that it communicates the information to the requestor, subject to any exclusions or exemptions applying.

13. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.

14. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.

15. The Commissioner has therefore sought to determine whether, on the balance of probabilities, the RCVS holds further information within scope of the request.

The complainant's position

16. The complainant has argued that they find it hard to believe that public bodies like the RCVS do not keep records of their meetings to record minutes and actions.

17. The complainant has explained that they had been told that a meeting of particular interest to them was held between the RCVS and Defra on 8 September 2021, but that both the RCVS and Defra had denied that the meeting took place. The complainant has argued that the RCVS has

been deliberately obstructing their attempt to gain information about matters that would help them.

The RCVS' position

18. In its internal review response, the RCVS explained that it has no obligation to minute any particular discussions, but in accordance with its publication scheme, it does publish minutes of its Council meetings on its website.
19. The RCVS has explained that it asked all staff members that could have had contact with APHA or Defra in the relevant period to carry out searches to identify any meetings from their individual laptops for emails or calendar entries with ancillary documents or email that would fall within the scope of the request. It explained that it also carried out searches of folders concerning Committee meetings and Council meetings. The RCVS confirmed that all information would be held electronically so no searches were carried out for paper documents.
20. The RCVS explained that it initially used the search terms 'defra' and 'apha' and as reference was made to meetings, staff members started by carrying out searches of their outlook calendars for the appropriate period for meetings arranged via Microsoft Teams or Zoom. Those meetings identified were cross-referenced with a search of emails using the same search terms to look for relevant emails or documents relating to those meetings.
21. In preparing its submission to the Commissioner, the RCVS asked staff to review their previous searches to double check in case any meetings in scope of the request had been missed. The RCVS carried out a further search and used the names of key individuals who were identified as attending meetings from calendar invites. It searched for emails in the names of these key attendees to ascertain if there had been any relevant information around pre-meetings, agendas, briefings or emails sent in relation to meetings and to capture any meetings where Defra or APHA might have had a representative attending a meeting even if not a main participant.
22. The RCVS explained that records of Committee and Council meetings are held indefinitely and it does not have a set period for the retention of emails.
23. The RCVS explained that it did not include purely administrative emails in its responses, that is emails discussing potential meeting dates, for example emails about Doodlepolls for dates where there is no substance other than 'please complete the Doodlepoll for a date' or someone saying 'can't do 4 September'.

The Commissioner's view

24. The Commissioner acknowledges the complainant's frustration that the initial response from the RCVS indicated that very little information was held within the scope of the request, but further information was found at internal review stage and then again during the Commissioner's investigation. While the Commissioner appreciates that the RCVS repeated its searches when preparing its submission, he feels that the RCVS should have carried out adequate searches when it received the request.
25. The Commissioner acknowledges that the complainant was told that a particular meeting was held on 8 September 2021. However, he cannot determine whether this was the case or not, and can only decide if the RCVS has now carried out sufficient searches to identify the information it holds that's within scope of the request.
26. As noted, the RCVS has also provided a response to the second part of the request as a subject access request. He agrees that it was appropriate for the RCVS to do so as it concerned a request for any information or correspondence that mentions the complainant. The Commissioner considers that the response to the subject access request combined with the information disclosed through FOIA would give the complainant a comprehensive overview of the relevant information the RCVS holds.
27. The Commissioner's decision therefore is that on the balance of probabilities, the RCVS does not hold further information within the scope of the request.

Procedural matters

28. As the RCVS identified further relevant information during its internal review process and again during the Commissioner's investigation, the Commissioner finds that the RCVS breached sections 1(1) and 10(1) of FOIA by failing to communicate all of the relevant information it held within scope of the request within 20 working days.

Right of appeal

29. 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

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Keeley Christine
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