

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

### **Decision notice**

**Date:** 4 March 2013

**Public Authority:** House of Lords

**Address:** London  
SW1A 0PW

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

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1. The complainant has requested when and how the Magna Carta (1215) was superseded, overturned or repealed. The Commissioner's decision is that the House of Lords does not hold the requested information.

#### **Request and response**

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2. On 1 August 2012 the complainant requested from the public authority information of the following description:

"Please can you tell me when and how the Magna Carta (1215) was superseded, was overturned or was repealed?"

It is my belief that this has not happened and that the Magna Carta (1215) still stands in law to this day.

If I am correct in that assumption then what authority does the House of Commons or the House of Lords have to presume that any Statute / Act of Parliament is superior to the Magna Carta (1215)."

3. The public authority substantively responded on 14 August 2012. It stated that it did not hold the information by saying as follows –

"Thank you for your enquiry to the House of Lords Administration.

The Freedom of Information Act 2000 provides a right of access to recorded information held by a public authority. It does not require staff of public authorities to comment on or otherwise express opinions on subjects. In formal Freedom of Information terms the

House Administration does not hold recorded information relevant to your request."

4. The public authority went on to state: "we try to be as helpful as possible and on this occasion a quick search of the internet reveals that the Ministry of Justice has already provided a very detailed answer to a similar question". It then provided links to a number of "web-pages" that appear to be relevant to the complainant's query.
5. The complainant replied to the public authority in a letter dated 14 August 2012. He said he was not asking for anyone's opinion but "I am asking for the facts as requested. Your response links to information from the MoJ but that does not answer the second part of my request for information: "what authority does the House of Commons or the House of Lords have to presume that any Statute / Act of Parliament is superior to the Magna Carta (1215).""
6. He went on to say that, "all your response does is refer to Statutes that have been passed by the House of Commons and the House of Lords since the Magna Carta came into force. This does not answer my question as to "what authority" there is to allow any Statute to be considered superior to the Law as set down in the Magna Carta. A Statute cannot give authority for Statutes to override the Magna Carta. The Magna Carta does not allow for that and came into Law around 80 years BEFORE the introduction of the first Parliament" (emphasis in the original).
7. The public authority replied to the complainant on 16 August 2012 and stated as follows:

"Thank you for your further e-mail dated 14 August. Our formal response in terms of the Freedom of Information Act 2000 is that the House Administration does not hold recorded information relevant to your request. In common with other public authorities we try to be as helpful as possible by responding, where we can, to general enquiries we receive outside the scope of the Freedom of Information Act.

Your question raises a point of constitutional theory, namely the nature and extent of parliamentary sovereignty, which is a matter of frequent debate in academic and legal circles. A recent and authoritative statement of parliamentary sovereignty can be found in the judgment of the Senior Lord of Appeal in Ordinary, Lord Bingham of Cornhill, in Jackson and others (Appellants) v. Her Majesty's Attorney General (Respondent) in 2005. At paragraph 9 of his judgment Lord Bingham said: "The bedrock of the British constitution is, and in 1911 was, the supremacy of the Crown in Parliament ... Then, as now, the Crown in

Parliament was unconstrained by any entrenched or codified constitution. It could make or unmake any law it wished.”

8. The complainant requested an internal review on 30 August 2012. The public authority sent him the outcome of the internal review, which was to uphold its original position, on 4 September 2012.

### **Scope of the case**

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9. The complainant, on 4 September 2012, contacted the Commissioner to complain about the way his request for information had been handled.

### **Reasons for decision**

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10. Section 1 of FOIA provides that any person making a request for information to a public authority is entitled –
  - (a) to be informed in writing 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.
11. The Commissioner accepts the assertion of the public authority that it does not hold the information that the requester is seeking. It is apparent that the public authority did seek to engage and assist the complainant to better understand what he was requesting.
12. The Commissioner's view is that the complainant's request for information is in fact a composite question that seeks another's opinion and/or understanding of when and how the Magna Carta (1215) was superseded, overturned or repealed.
13. The Commissioner's position is that if answering a request involves exercising sophisticated judgement, the requested information will not be held. However, if only a reasonable level of judgement is required to identify the relevant building blocks, or manipulate those blocks, the information will be held.
14. On the facts of this matter the Commissioner is of the view that to satisfy the complainant's request for information will, as a minimum, require the exercising of a sophisticated judgement well in excess of what it is reasonable to expect the public authority to provide. In particular it will require a high degree of legal expertise, in constitutional jurisprudence, canon law, and legal theory that is not readily available to the public authority via its staff.

15. The Commissioner is more than adequately satisfied that the public authority does not hold the information that the complainant is requesting.

## Right of appeal

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16. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

17. 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.
18. 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 .....**

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**