

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 August 2015

Public Authority: Her Majesty's Treasury
Address: 1 Horse Guards Road
London
SW1A 2HQ

Decision (including any steps ordered)

1. The complainant has requested information from HM Treasury (the Treasury) about Civil List payments to members of the Royal Family. The Treasury has refused the request relying on section 21 FOIA – information accessible to the applicant by other means. It did provide some information, outside of the FOIA in order to assist the complainant.
2. The Commissioner's decision is that the Treasury was entitled to rely on section 21 to refuse the request. No further steps are required.

Request and response

3. On 25 December 2014, the complainant wrote to the Treasury and requested information in the following terms:

"Please advise under the FOI act the names of individuals on the civil list and the amount they receive."
4. The Treasury responded on 30 January 2015. It advised that it did hold information falling within the scope of the request. Although the Treasury did not specifically mention section 21, it set out that the information was publicly available and provided a link to the requested information. The letter also attempted to be helpful by explaining that the Civil List and associated grants had been replaced by the Sovereign Grant in April 2012. Her Majesty the Queen is the only recipient; this information was set out in the link provided. It provided further

explanation about the Sovereign Grant, the amount for year 2013/2014 and the purpose of the Grant.

5. The complainant wrote again to the Treasury on 10 February 2015 and made a further request for information of the following description:

"I would now request the CIVIL LIST payments to princes Andrew and his girls, Charles and Camilla, William and Kate Prince Harry also Edward and Sophie and any others that are on the LIST. Incl. Princess anne."

6. The Treasury responded on 2 March 2015. It confirmed that it held information within the scope of the request. It disclosed information relating to the old Civil List and amounts refunded to the state by Her Majesty the Queen from annuities received by members of the Royal Family. The letter explained that annuity payments had been abolished in 2012 with the only one still remaining being paid to HRH The Duke of Edinburgh; it disclosed the amount of that annuity.
7. In order to be helpful, the Treasury also provided a link to the Annual Financial reports of the Royal Household and a link specifically to the Report of the Royal Trustees which refers to these annuities and has a ten year summary. This link provides details of annual financial reports dating back 10 years and therefore information falling within the scope of the request. It also provides details of the Sovereign Grant for 2013/14. The Treasury provided relevant pages of that report in hard copy.
8. The complainant wrote again to the Treasury and the date of the letter was written as "23/2/15" (prior to the date of the Treasury's previous response). The Treasury considered this correspondence as a request for an internal review of its response dated 2 March 2015 regarding the request of 10 February 2015. The complainant's letter stated:

"this is the 3rd time I have asked for the CIVIL LIST -complete. This should be available under the FREEDOM OF INF.ACT."
9. HM Treasury responded on 20 April 2015 and upheld its original position. It explained that its initial response to this request correctly set out the details of those members of the Royal Family who had received an annual annuity under the old Civil List arrangements.
10. In order to be helpful it provided an Annex containing an excerpt of information from the British Monarchy website.
11. The internal review response set out that the previous correspondence had included a link to the Royal Household website. The review advised

that reference to this website at 'Financial Arrangements of the Prince of Wales' sets out that the Prince of Wales does not receive money from the Civil List. The letter goes on to explain this finance in a little more depth by setting out some of the information contained in the link.

Scope of the case

12. The complainant contacted the Commissioner on 23 April 2015 to complain about the way his request for information had been handled.
13. The complainant set out his belief that there are 6 members of the Royal Family still receiving annuities. He stated that he did not care about the source of that income and suggested that the Commissioner "*name these recipients of cash*" and the amount received. Specifically the complainant further stated:

"one of 'Andrew's daughters allegedly had 11 holidays in 6 months who paid??. To get me off your back name names and how much they are paid."

14. The Commissioner considers the scope of the investigation is to determine if the Treasury was correct to rely on section 21 to refuse to disclose the requested information and whether it holds any remaining information within the scope of the request. The Commissioner will consider both requests in this decision notice as the request of 10 February 2015 requests information which would already be covered by the broader request of 25 December 2014.

Reasons for decision

Section 1 – General right of access

15. Section 1(1) of the FOIA states that any person making a request to a public authority 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 him.
16. The Commissioner has considered the exact wording of the requests for information and notes that the Treasury has confirmed that it holds information within the scope of the request and has explained that the information is publicly available. Much of the information it has disclosed to the complainant has been provided outside of the FOIA. This has included information which would be considered exempt by virtue of

section 21 and explanations and background information which is outside the scope of the request. The Treasury provided the information in an attempt to be helpful.

17. Given that the Treasury has confirmed that it holds information falling within the scope of the request, the Commissioner considers that it has fulfilled its duty in respect of section 1(1)(a) of the FOIA.
18. In scenarios where there is some dispute between the amount of information located 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 Information Tribunal decisions, applies the civil standard of the balance of probabilities.
19. It is debatable whether this is an issue in this particular case. In his complaint, the complainant reiterates his request rather than setting out his position regarding the Treasury's responses. The information which has been disclosed by the Treasury comprises some information about the Sovereign Grant which is exempt by virtue of section 21 and some information about annuities which is not within the scope of the request but is provided in order to assist the complainant.
20. It is certainly the case that the information disclosed in the original request dated 25 December 2014 has been disclosed outside of its obligations under the FOIA as the Treasury applied an exemption then provided some information in order to be helpful.
21. With regard to the request dated 10 February 2015, the Commissioner notes that despite having already been told that the Civil List no longer exists, the complainant made this further request for information about it. Both responses have provided historical information held by the Treasury but this does not seem acceptable to the complainant and therefore the Commissioner must draw the conclusion that the requests, as they are worded, are for information which was current at the time of the request. The Treasury does not hold information about the Civil List beyond April 2012 and therefore it is clearly the case that the information disclosed in response to the second request is information which is outside the scope of the request.

Section 21 – information accessible to applicant by other means

22. Section 21(1) of the FOIA exempts information from disclosure under the Act if it is otherwise reasonably accessible to an applicant by other means.

23. The Commissioner notes that despite applying the exemption at section 21, the Treasury has disclosed some information which is in fact already publicly available.
24. The wording of the requests do not suggest that historical information is requested but rather that the complainant wants details of those individuals on the Civil List at the time of his requests. At the time of the requests, the Civil List no longer existed.
25. However, the Commissioner accepts that the Treasury has interpreted the requests in as broad a manner as possible. It has attempted to be helpful and has set out when the Civil List ceased to exist, has explained how the Sovereign Grant works has provided the amount for year 2013/2014 and the purpose of that grant.
26. Despite this initial explanation, the complainant continued to ask further questions about the Civil List. Over the course of its correspondence with the complainant, the Treasury continued with its helpful approach by disclosing information about the old Civil List and providing links to and hard copies of information available.
27. The Commissioner accepts that the Treasury holds information about the old Civil List and its replacement the Sovereign Grant. He accepts that the information is publicly available – and clearly reasonably accessible to the complainant - and therefore the Treasury was entitled to refuse the request citing section 21.

Other matters

28. Although the Commissioner accepts the application of section 21 in this case, he also considers that the Treasury could have interpreted the requests differently given their specific wording. The requests appear to relate to individuals on the Civil List at the time of the request. It would of course have been open to the Treasury to refuse the request on the basis that it did not hold the information given that the Civil List did not exist at that time. It is to the Treasury's credit that it has adopted the broadest interpretation of the request and although it has correctly refused the requests and applied the exemption at section 21, it has gone on to provide detail, documentation and explanation in a bid to help answer the complainant's question.
29. In an attempt to resolve the complaint informally, the Commissioner wrote to the complainant setting out his position with regard to his requests. In his letter the Commissioner explained that he agreed that the Treasury had correctly engaged section 21 and set out also that he

felt that the Treasury had disclosed all of the relevant information. The complainant rejected the Commissioner's position.

30. With regard to the request made to the Commissioner about "*one of Andrew's daughters*", the complainant has been counselled that his office does not hold the information requested.

Right of appeal

31. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

32. 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.
33. 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
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