

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 July 2020

Public Authority: Department for International Development
Address: 22 Whitehall
London
SW1A 2EG

Decision (including any steps ordered)

1. The complainant submitted a request to the Department for International Development (DFID) seeking information about a meeting between The Prince of Wales and the then Secretary of State, Clare Short. DFID explained that it did not hold any information falling within the scope of the request. The complainant disputed this and argued that DFID was likely to hold information.
2. The Commissioner has concluded that on the balance of possibilities DFID does not hold any information falling within the scope of the request.

Request and response

3. The complainant submitted the following request to DFID on 1 January 2020:

'I would like to request the following information relating to a meeting which took place between His Royal Highness the Prince of Wales and Clare Short on 18 December 2000.

According to the Court Circular the meeting took place at St James's Palace.

Please note that the reference to the Prince of Wales in the questions below should include the Prince himself, his Principal Private Secretary (ies), and any other private secretary (ies) and anyone in his private office able to correspond and communicate on his behalf.

Please note that the reference to Clare Short should include Ms Short herself, her Principal Private Secretary (ies), and any other private secretary (ies) and anyone in her private office able to correspond and communicate on her behalf.

Please note that the reference to written correspondence and communications in the questions below should include traditional forms of correspondence such as letters and faxes, emails irrespective of whether they were sent through private or official email accounts and messages sent through any encrypted messaging services.

1...Does the Department for International Development hold written documentation (generated at the time) which relates to the meeting and issues discussed at the meeting.

2...Can you please provide a full list of those present at the meeting?

3...Did His Royal Highness the Prince of Wales write or communicate with Ms Short about the meeting and specific issues discussed at the meeting. This correspondence may have taken place before the meeting itself or it may have post dated the meeting. If the answer is yes can you please provide copies of this correspondence and communication.

4...Did Ms Short write or communicate with the Prince of Wales about the meeting and the specific issues discussed at the meeting. The correspondence may have taken place before the meeting itself or it may post date the meeting. If the answer is yes can you please provide copies of this correspondence and communication including any emails.

5...Was any agenda produced in advance of the meeting even if only an informal basis and for internal purposes only. If the answer is yes can you please provide a copy of this agenda.

6...Were any briefing notes (or similar) provided to Ms Short in advance of the meeting. These briefing notes or similar would explore possible areas for discussion at the meeting and or include details of the Prince's work in the relevant areas being discussed and or the Government's relevant policies in the areas to be discussed.

7...If the answer to question six is yes can you please provide a copy of these briefing notes.

8...Did the Prince of Wales hand over any written or visual material to Ms Short at the meeting. If the answer is yes can you please provide a copy of this material.

9...If relevant documentation has been destroyed by Dfid and or any other organisation acting on its behalf can you please provide details.

a...Can you please identify which documents have been destroyed and in the case of each piece of destroyed documentation can you provide a relevant title and brief outline of its contents.

b...In the case of each piece of destroyed documentation can you please state when it was destroyed and why?

c...In the case of each piece of actual written correspondence and communication which has been destroyed can you please details of the date generated, the author, the recipient and a brief outline of its contents.

d...In the case of all destroyed documentation if the documentation continues to be held in another form can you please provide a copy of that destroyed documentation.'

4. DFID responded on 29 January 2020 and explained that it did not hold any information falling within the scope of the request.
5. The complainant contacted DFID on 6 February 2020 and asked it to conduct an internal review. In particular, he asked for his comments about destroyed documentation to be taken into consideration.
6. DFID informed him of the outcome of the internal review on 28 February 2020. The review explained that given the time period covered by the request if any recorded information was held then it would be in the form of paper records. However, all relevant files had been searched and no information falling within the scope of the request had been located. The review also explained that no information had been located which indicated that relevant information had been held by DFID at the time of the request but subsequently destroyed.

Scope of the case

7. The complainant contacted the Commissioner on 7 March 2020 about DFID's handling of his request. He argued that it was likely that information falling within the scope of the request was held.

Reasons for decision

Section 1 – Right of access to information

8. In cases such as this where there is some dispute as to whether information falling within the scope of the request is held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
9. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request.
10. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches, or other explanations offered as to why the information is not held.

DFID's position

11. In order to investigate this complaint the Commissioner asked DFID to explain the nature of the searches that it had undertaken for information falling within the scope of the request and to explain why such searches would have been likely to locate any information if it was held. She also asked DFID to clarify whether any information falling within the scope of the request had been destroyed and if so whether it had a record of this destruction.
12. The Commissioner has summarised DFID's responses below:
13. DFID explained that it had used its register of paper files to identify any files opened in 2000 that may contain the relevant information. (The internal review had explained that if any relevant information was held then it would be held on paper files because information from the time period in question would have been recorded in paper rather than electronically with DFID.)
14. DFID explained that there is no indication from the Court Circular entry for the meeting which is the focus of the request, or elsewhere in the public domain, what the meeting was in connection with. Therefore, it had determined that it would be more likely than not that any information relating the meeting would be held in the following series of files that holds details of invitations, meetings and other matters

relating to the Secretary of State and DFID's Top Management Group (TMG):

- Invitations to the Secretary of State to Outside Conferences and Meetings.
 - Secretary of State Policy Discussions
 - Letters of invitation to the Secretary of State and the Permanent under Secretary of State.
 - Invitations to the Secretary of State to Outside Conferences and Meetings
 - Department for International Development: Secretary Of State Meeting
 - Ministerial Visits
 - Top Management Conferences and Meetings
 - Letters of Invitation to the Secretary and State
 - Ministerial Briefs
 - Ministerial Correspondence
 - Matters Relating to The Secretary of State, Department for International Development
15. DFID explained that it also searched for files that were related to the Princes' Trust which is funded by DFID, given that the Prince of Wales' earlier meeting was with members of the Trust. The following file series was also identified:
- Enterprise Development Group: Princes Trust
16. DFID's Information Rights Team explained that it had contacted its Knowledge and Information Management (KIM) team to arrange for all such files to be sent to its office for inspection. They confirmed that out of the list above the following files were or were likely to have been destroyed as they were no longer in DFID's offices or its off-site location:
- Ministerial Visits – likely to have been destroyed.
 - Ministerial Correspondence – destroyed.
 - Matters Relating to The Secretary of State, Department for International Development – likely to have been destroyed.
17. DFID explained that if or where files had been destroyed and a record of their destruction made and retained, such records would only state the number and title of the file and no record of the contents beyond that would have been retained. Therefore, it would not be possible to determine from any record of destruction whether the file had contained any information relevant to the request.
18. DFID explained that the remaining files were searched by the Information Rights Team, and none were found to contain any reference

to the meeting with the Prince of Wales. It argued that given the nature of the information sought and the nature of its information holdings from the period relevant to the request, it considered that this was a reasonable search to make given that it was unable to identify the purpose of the meeting.

19. DFID also explained that details of the meeting may also have been held in hard copy Ministerial diaries however its retention period for the diaries was five years and that any diaries relating to the period relating to the request would have been destroyed. DFID explained that the physical destruction of the diaries would have been carried out by staff in TMG in its London office. It explained that no record was retained to state that relevant diaries had been destroyed, but DFID's KIM team were confident that they would have in fact been destroyed and TMG had previously confirmed to the Information Rights Team that no hard copy diaries were retained by them for the period in question.

The complainant's position

20. The complainant explained that he considered it highly likely given the nature of the meeting that DFID would have generated documentation at the time of the meeting. Furthermore, in light of this, he argued that if information was not held then it must have been destroyed and therefore DFID could have provided him with information about that destruction.

The Commissioner's position

21. The Commissioner is satisfied that on the balance of probabilities DFID does not hold any information falling within the scope of the request. She has reached this conclusion because in her view, in the absence of any indication as to the subject matter of the meeting, it was logical for DFID's searches to focus on the files listed above relating to the Secretary of State and the TMG and the file related to the Princes' Trust as a possible locations of information falling within the scope of the request. The Commissioner accepts that a search of these paper files by the Information Rights Team has failed to locate any information relevant to the request. In the Commissioner's view there are no further steps that DFID could reasonable be expected to take to locate the requested information.

22. The Commissioner notes that a small number of files, including Ministerial diaries, which may have *potentially* held relevant information have been destroyed. However, in the Commissioner's view, DFID was under no obligation to provide details of the destruction of these files to the complainant because request 9 sought details of '*relevant documentation [that] has been destroyed*' and the destruction records do not provide any indication as to whether this information was in fact relevant.

Right of appeal

23. 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

24. 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.
25. 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

**Jonathan Slee
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