

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 January 2021

Public Authority: Foreign, Commonwealth & Development Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant submitted a request to the Foreign, Commonwealth and Development Office (FCDO) seeking information it held about her father who died in a car accident in Pakistan in 1964 whilst working at the High Commission in Lahore. The FCDO explained that it did not hold any information falling within the scope of the complainant's request. The complainant disputed the FCDO's response.
2. The Commissioner is satisfied that, on the balance of probabilities, the FCDO does not hold any information falling within the scope of the complainant's request.
3. No steps are required.

Request and response

4. The complainant submitted the following request to the FCDO on 3 July 2019:

'I would like to make a freedom of information request concerning my father, [name redacted] who was born on [date redacted] and died as the result of a car accident outside Lahore on [date redacted]. At the time of the accident he was the Second Secretary at the High Commission in Lahore. I know that he is buried in Lahore and have seen pictures of his grave.'

As his death was the result of a car accident I assume that there was an inquest held and would appreciate the outcome of this and of any other enquiries made at the time.'

5. The complainant subsequently clarified her request on 8 July 2019:
'I would like the period dating from a year before his accident to nine years afterwards to be considered. Just to clarify from January 1963 to 1973.'
6. The FCDO responded on 1 August 2019 and explained that following a search of its holdings it had not identified any information relevant to the request. However, it explained that it did identify a publication entitled 'The Commonwealth Relations Office List' for 1963 which was held at The National Archives (TNA) and contained brief biographical information about the complainant's father. The FCDO provided the complainant with this information. The FCDO also explained that any personnel files that it may have held would have been destroyed in line with the retention policy at the time, ie until an individual reached 85 years of age or at 5 years after death.
7. The complainant contacted the FCDO on 6 August 2019. She accepted that files relating to her father's work would have been destroyed but assumed that information relating to his untimely death would have been held for longer.
8. The FCDO informed her of the outcome of the internal review on 17 October 2019. It explained that adequate searches had been conducted to locate information within the scope of her request but no information could be located.
9. The complainant contacted the FCDO on 5 November 2019 to acknowledge receipt of this response. She also asked the FCDO whether she needed to apply to a different government department in relation to her request. The FCDO did not respond to this communication.

Scope of the case

10. The complainant contacted the Commissioner on 28 January 2020 in order to complain about the FCDO's handling of her request. She explained that she accepted that personnel records relating to her father will have been destroyed. However, she explained that her request also covered information surrounding her father's untimely death, not relating to his work record. As his death was as a result of an accident, which occurred on government business, she had assumed that in order to follow due process an inquest would have been held and as result of

this legal process further records would have been generated and held for a longer duration.

11. Furthermore, the complainant explained that she was dissatisfied that the FCDO did not address her query of 5 November 2019 as to whether a different government department may hold information relevant to her request.

Reasons for decision

Section 1 – Right of access to information

12. 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.
13. 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.
14. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches, and/or other explanations offered as to why the information is not held.

The complainant's position

15. For the reasons noted above, the complainant expected the FCDO to hold at least some information falling within the scope of her request.

The FCDO's position

16. In order to investigate this complaint the Commissioner asked the FCDO a number of questions about the steps it had taken to locate information falling within the scope of this request and also for any further clarification it could provide in terms of the retention of the types of records which could fall within the scope.
17. The Commissioner has out below the questions she asked the FCDO and then summarised its answers:

Question: Please detail the nature of the searches undertaken to locate information falling within the scope of this request and why they would have been likely to locate any relevant information.

FCDO response: The FCDO explained that it in order to try and identify any relevant information it searched:

- The electronically held FCDO archive inventory (a spreadsheet) which provided details of FCDO central archive holdings and archive records across the FCDO estate. It searched using the key words: the surname of the complainant's father (no results), 'Lahore' (no relevant results), 'Pakistan' (no relevant results), 'inquest' (no relevant results), 'accident' (no relevant results) & 'death' (no relevant results). The FCDO explained that the inventory holds information at records series level, not document level.
- It searched the files held in the archive that have been sent from its overseas Posts in Pakistan – no relevant information was identified. The FCDO noted that the post in Lahore closed in the mid-1970s.
- It searched files held in its archive that holds ex-members of staff personnel files / records. The FCDO established it had held a personnel record but that it had been destroyed in 2003.
- The FCDO explained that it used the electronic TNA (The National Archives) catalogue in order to identify files held by the TNA which might be relevant to the request and for which the FCDO might be holding corresponding retained material. It used the following key words as search terms: the surname of the complainant's father (no results), 'Lahore' (7 results but not relevant to the request), 'Accident NOT aircraft' (18 results but not relevant to the request), 'High Commission AND Pakistan' (73 results but none relevant to the request).
- The FCDO Nominal indexes, which list Individual / Organisational names in alphabetical order. Search term: the surname of the complainant's father (No results).

The FCDO explained that as it had not identified a search of its consular directorate holdings as part of its initial responses to the request it conducted such a search in response to the Commissioner's investigation. Furthermore, the FCDO's consular directorate also contacted the British High Commission in Islamabad in case any legacy files from Lahore had been transferred on closure. These new searches did not yield any relevant information.

Question: Are you able to offer any clarification or details about the processes and procedures that would have taken place during the period in question when an employee died abroad? For example, is it the case that an inquest would have taken place?

FCDO Response: The FCDO explained that it had asked for advice from its consular directorate Coroner Liaison officer based in the UK on this issue. The FCDO explained that if there was an inquest in that

period it is likely to have taken place in the country where the death occurred. However, the FCDO explained that as part of its searches for information it had not identified any recorded information as to whether an inquest had taken place for the complainant's father as an employee of the Commonwealth Relations Office at the time.

The FCDO also explained that information regarding the coroner inquest processes in place at the time is not readily available and would require a further detailed search of its records held in the UK and overseas. However, as part of its response to the Commissioner's investigation it conducted a search of its archive inventory and consulted some older Diplomatic Service Procedures. The FCDO explained that it had not identified any general guidance or policy on coroner inquests overseas from this period. It explained that the search terms used when searching the archive inventory were 'coroner', 'death employee' and 'inquests'.

The FCDO noted that a more detailed search could be carried out if the complainant were to submit a further FOI request for this type of procedural information/guidance from the period. However, the FCDO explained that usually when general guidance of this type was updated with new procedures and/or policy being formulated, the superseded guidance was usually destroyed if it did not need to be preserved for the permanent public record. The FCDO explained that this was likely to limit significantly any information it was able to retrieve on overseas coroner procedures in the past.

The Commissioner's position

18. In light of the FCDO's responses the Commissioner is satisfied that on the balance of probabilities it does not hold any recorded information falling within the scope of the request. The Commissioner has reached this conclusion because in her view the searches the FCDO has undertaken for the information were detailed, focused and logical and it is reasonable to assume that if any relevant information was held then these searches would have located it.
19. The Commissioner also notes that the FCDO's efforts to locate guidance or policies about coroner inquests overseas from this period also proved unsuccessful. Whilst any such guidance or policies would not fall within the scope of the request, the Commissioner acknowledges that they could have proved useful in understanding the nature of information that the FCDO may have retained in cases such as the complainant's father.
20. The Commissioner can understand the complainant's point that it is reasonable to assume that the FCDO may have retained information about an inquest into her father's death, but no policy or guidance has been located to confirm that the retention of such information was in

fact a requirement. However, for the reasons set out above, even if such information had been retained, in the Commissioner's view it is reasonable to assume that the FCO's searches would have located it.

The complainant's email of 5 November 2019 to the FCDO

21. The Commissioner notes that the complainant sought advice from the FCDO on 5 November 2019 as to whether it was aware of any other public authorities who may hold information relevant to this request but she did not receive a response to this query. The Commissioner therefore asked the FCDO for its advice on this point.
22. In response the FCDO explained that its coroner liaison officer stated that if an inquest had taken place the complainant should seek the information from the local authorities where her family were living at the time. However, the coroner liaison officer emphasised that the amount of time that had lapsed since the death of the complainant's father should be remembered and that and record keeping standards can vary in different locations.
23. The FCDO noted that current procedures are that the coroner liaison officer shares information directly with the coroner and the records of inquests are held by the Coroner. The FCDO also noted that TNA publishes a guide to coroner's inquests <https://www.nationalarchives.gov.uk/help-with-yourresearch/researchguides/coroners-inquests/>
24. The Commissioner has shared the FCDO's advice in relation to this query with the complainant.

Right of appeal

25. 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

26. 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.
27. 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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