

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 September 2022

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information from Cabinet Office ("CO") relating to the former Prime Minister's family pet dog, Dilyn. The CO confirmed they did not hold any relevant information.
2. The Commissioner's decision is that, on the balance of probabilities, CO does not hold the requested information.

Request and response

3. On 24 June 2021, the complainant wrote to CO and requested information in the following terms:

"Can you please provide any information that you hold that either relates to, refers to, or references the dog that is owned by the Prime Minister and/or his wife. I note that "information" is defined in section 84 of the FOIA as "recorded in any form". In conducting the search, it may be useful to know (but not in a way which limits the scope of this request) that the dog's name is Dilyn.

I am after information between the following dates:

- 1st March 2020 to 31st March 2020, and
- 25th March 2021 to 25th June 2021.

Please also ensure that the non-work personal email accounts of persons that may hold relevant information are also included in the search. The basis of this inclusion is that public authorities should consider all locations where relevant information may be held and the Chief Advisor at the time to the

Prime Minister was conducting official government business using a gmail account, so it is reasonable to assume that colleagues were doing so too. Please also search backup servers where possible (in the case of email information).

In responding to this request please provide the following:

1. The actual information that is held
2. Which specific locations were searched
3. How many individuals were contacted to check if they held relevant information (and how many of those individuals responded to the request)".
4. CO responded on 23 July 2021. It stated that it did not hold information about Dilyn.
5. On 5 August 2021 the complainant requested an internal review in which they stated:

"The response to my request falls severely short of what is required under the FOIA. Firstly, I note that there is at least one photograph that exists of Dilyn on the official number 10 Flickr page within the dates that I highlighted (<https://flic.kr/p/2jngZmF>). As it would appear that the photos that are uploaded on this channel are a subset of those taken, it would be reasonable to surmise that other photos exist which would be covered under the act. Secondly, your response indicates that information exists in the form of other requests, but you have not provided the requests or the responses themselves as you are required to do, instead opting for a summary stating that the responses confirm that no information is held. Finally, I note very conveniently you have not responded to points 2 and 3 of my request".
6. CO responded to the internal review request on 17 November 2021 and upheld its original decision.

Scope of the case

7. The complainant contacted the Commissioner on 18 October 2021 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of this case is to determine whether the information requested is held by CO.

Reasons for decision

9. Section 1(1) of the 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.
10. In cases where there is a dispute over the extent of recorded information held by a public authority at the time of a request, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.
11. As advised by the CO that the photos were not held, and in their submissions to the Commissioner, the CO explained, outside of the Act, how they came to be there. The CO have stated that they do not hold any further photos or other information relating to Dilyn.
12. The complainant, in their internal review request, believes that the photos on Flickr show that more such photos must be held by CO.
13. The Commissioner is satisfied with the explanation provided by CO that no further photos or information is held by CO.
14. CO also disclosed to the complainant, copies of other requests and responses which referenced Dilyn, but withheld personal data contained in the information under section 40(2) of FOIA.
15. The Commissioner notes that the withheld information under section 40(2) of FOIA, is not a matter of dispute.
16. The Commissioner accepts the explanation provided by CO and on this basis, his conclusion is that on the balance of probabilities CO does not hold the requested information.
17. The complainant is one of a number of individuals that have made similar requests to CO. Whilst the Commissioner accepts that each case must be considered on its own merits, he can see why it was not necessary in this case to conduct additional searches as CO is already aware that the information is not held.
18. The Commissioner does not require the public authority to take any steps.

Other matters

19. The Commissioner would note that under Section 50(2)(c) of FOIA, he is not required to make a decision in respect of a complaint that is frivolous. (i.e. lacking a serious purpose) and this provision needs to be borne in mind when submitting complaints to the ICO about public authority responses.

Right of appeal

20. 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

21. 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.
22. 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

Phillip Angell
Group Manager
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SK9 5AF