

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

### **Decision notice**

**Date:** 5 July 2023

**Public Authority:** Foreign, Commonwealth and Development Office

**Address:** King Charles Street  
London  
SW1A 2AH

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

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1. The complainant has requested information about a visit to Southampton University by a member of the Royal Household. The Foreign, Commonwealth and Development Office ("FCDO") identified two documents within its Knowledge Management Department ("KMD"), and considered that only one document fell within scope of the request. FCDO has already provided the complainant with both documents as part of its response to a separate information request therefore it did not re-issue the document to the complainant. FCDO stated that further information within scope of the request was not held.
2. The Commissioner's decision is that, on the balance of probabilities, further information within scope of the request is not held by FCDO.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 15 November 2022, the complainant wrote to FCDO and requested information in the following terms:

"Under FOI may I have all material relating to the visit of the member of the Royal Household to Southampton University on 15<sup>th</sup> March 2018

and any other visits to Southampton University made by members of the Royal Household together with all correspondence surrounding those visits.”

5. FCDO responded on 22 December 2022. It stated that, after conducting a search of its Protocol Directorate, which handles liaison with the Royal Households, it had determined that it did not hold the requested information.
6. On 22 December 2022 the complainant requested an internal review suggesting that the information may be held elsewhere within FCDO.
7. On 27 March 2023 the complainant contacted the Commissioner to complain that FCDO had not conducted an internal review. The Commissioner accepted the case for investigation on 29 March 2023 without an internal review, as it is within his discretionary powers to do so.
8. On 29 March 2023 the Commissioner wrote to FCDO to notify that the case had been accepted for investigation and to query the missing internal review.
9. On 26 April 2023 FCDO provided the complainant with an internal review in which it maintained its original position. FCDO explained that it had extended its searches to cover its retrievals department, and the sample search conducted covered a five year period as the complainant had not provided a timeframe for the request. FCDO also explained that extending its searches to cover the entirety of FCDO would have been likely to breach the cost threshold in place for central government departments complying with information requests<sup>1</sup>.
10. FCDO acknowledged that the complainant had also made a similar request for information that had been handled by its Knowledge Management department (“KMD”). After conducting sampling searches, KMD identified two documents, however FCDO stated in its internal review response that, on review, it had concluded that the first document was not in scope of the present request and the second had already been distributed to the complainant.

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<sup>1</sup> [https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

## Scope of the case

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11. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, FCDO holds information within scope of the request.

## Reasons for decision

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### Section 1(1)

12. Section 1(1) of 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."

### FCDO's position

13. The Commissioner wrote to FCDO to ask it to outline the searches it had undertaken to locate any information it may hold. FCDO explained that:

"Within FCDO, the Royal, Ceremonial and Honours Unit (RCHU) in Protocol Directorate leads on liaison with the Royal Households and all such correspondence from the FCDO geographical desks and our Missions overseas should be routed through this Unit. This is clearly noted in the FCDO internal guidance on how to liaise with the Households. RCHU searched our shared area/Teams folders using the key words "Southampton University". A colleague within RCHU also searched his personal folders. No documents were found in either search. The requester did not specify whether the request was related to any particular country or issue. We therefore limited our search to within Protocol Directorate, as stated in the original response."

14. FCDO clarified that the RCHU is engaged in the international aspects of HMG's work with the Royal Households and explained that neither the Protocol or Geographical Directorates would be involved in visits by members of the Royal Household to domestic institutions. When queried by the Commissioner, FCDO confirmed that it was therefore unlikely that RCHU would be involved in a visit to Southampton University, however any information or correspondence held by FCDO relating to this visit would have been routed through, and held by, RCHU in line with internal guidance.

15. FCDO stated that it had also conducted a search of its retrievals department:

"The retrievals department are located at Hanslope Park, they are responsible for conducting searches to locate documents and files in our archives on site, they support departments and posts in retrieving archived material to assist with departmental work and FOI requests. We extended our search to Retrievals during the internal review process as the requestor mentioned that he wanted us to search all areas of FCDO, we conducted a sampling search with retrievals as they were the next department who were most likely to hold information relating to the royal visit and had assisted in the handling of a previous FOI submitted by [NAME REDACTED]. However the search produced a nil return."

16. FCDO acknowledged the possibility that papers may be held by staff outside of RCHU, retrievals and KMD, however stated that the possibility was remote and maintained that to extend its searches to include the entirety of the FCDO would be likely to exceed the cost limit for handling an information request as outlined for central government authorities.
17. In respect of the delay in providing an internal review of its handling of the request forming the basis of this notice, FCDO explained that it had been made aware that the KMD had been asked to conduct an internal review in relation to the complainant's separate information request, and had been awaiting the outcome of KMD's searches to check whether information had been located relating to visits by the Royal Household to Southampton University.

### **The Commissioner's Position**

18. The Commissioner has reviewed the two documents that the KMD located in its searches. Towards the end of the document that FCDO considers to fall within scope of the request, there is reference to the requirement for collaboration between the Southampton University and the Crown in order to prepare the diaries of Lord and Lady Mountbatten for publication, owing to issues of copyright. While it does not explicitly refer to the visit by a member of the Royal Household to the University on the date given in the request, the Commissioner appreciates that the document does state that the involvement of the Royal Household in reviewing the material will be necessary, and that the relevant part of the archive is held at the Southampton University. As such, he considers this document to fall within scope of the request as correspondence surrounding the visit, however he acknowledges that FCDO has already provided the complainant with a copy of this document in response to their separate request.

19. The Commissioner is satisfied that the second document located by KMD does not fall within scope as it makes no reference to a visit by a member of the Royal Household.
20. As information within scope of the request was located outside of the RCHU it broadens the possibility that information may be held within other areas of FCDO. However, the Commissioner notes that the FCDO has also searched its retrievals department and he accepts that if information relevant to the request was held, beyond RCHU, then it is likely that it would be in that department; a position supported by the fact that the information in scope was located within that department. Furthermore, the Commissioner agrees with FCDO's position that conducting searches across the entirety of the department would be likely to exceed the £600 cost limit and therefore engage section 12 of FOIA. He considers that the searches conducted by FCDO into information held within the RCHU were reasonable and proportionate and would have been likely to return any further information within scope, were any held.
21. In correspondence with the Commissioner the complainant stated that they believed that further information may have been held by the FCDO unit that arranged for "India/Pakistan experts for the FTT proceedings"<sup>2</sup> and that they doubted "that checking those matters would require much more (at least initially) than a phone call or email to Hanslope and SE Asia dept." FCDO made clear in its response to the Commissioner that neither the Protocol nor the Geographical Directorates would be involved in visits by members of the Royal Household to domestic institutions, therefore the Commissioner does not feel that it is proportionate or necessary for FCDO to extend its searches to a geographical area when it is unlikely that information would be held there. Furthermore, as noted above, the Commissioner is also inclined to agree with FCDO's position that conducting searches across the entirety of the department would be likely to exceed the £600 cost limit and therefore engage section 12 of FOIA.
22. The Commissioner has therefore concluded that, on the balance of probabilities, further information within scope of the request is not held by FCDO. For clarity, the Commissioner is not required to prove categorically whether information is, or is not, held.

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[https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i3033/Lownie%20Andrew-EA-2020-0058-\(15.03.22\).pdf](https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i3033/Lownie%20Andrew-EA-2020-0058-(15.03.22).pdf)

## Right of appeal

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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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**