

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 November 2023

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant has requested information concerning meetings between Prime Ministers Johnson and Truss and various senior media executives.
2. The Cabinet Office stated that they did not hold any information within scope of the complainant's request.
3. The Commissioner's decision is that, on the balance of probabilities, the Cabinet Office do not hold the information requested.
4. The Commissioner requires no steps to be taken.

Request and response

5. On 14 February 2023, the complainant wrote to the Cabinet Office and requested information in the following terms:

"Please provide all notes, briefings, minutes related to the following meetings¹:

Date: 20/9/2022

Host: Rt Hon Elizabeth Truss MP

Position: Prime Minister

Department: Prime Minister's Office

Lobbyist: Robert Thomson, CEO of News Corp

Purpose: To discuss the priorities of the new government

Date: 10/8/2022

Host: Rt Hon Boris Johnson MP

Position: Prime Minister

Department: Prime Minister's Office

Lobbyist: Chris Evans, Editor of the Daily Telegraph

Purpose: Political Discussion

Date: 9/8/2022

Host: Rt Hon Boris Johnson MP

Position: Prime Minister

Department: Prime Minister's Office

Lobbyist: Ted Verity, Editor of the Daily Mail

Purpose: Political Discussion".

6. The Cabinet Office (specifically Number 10 Downing Street) responded to the request on 14 March 2023. They advised that searches of their records had not identified any "official information" in scope of the request. The response explained that since 2011, the Government had proactively published details of all meetings (including social and political) between Ministers and senior media executives. These included informal meetings (with such senior media figures) where there is no requirement to take minutes as they are not structured or formal Government meetings.
7. On 14 March 2023 the complainant requested an internal review. He described his information request as being for "Notes of PM political and policy discussions with media organisations (2022)".

¹ These meetings were published as part of transparency data on GOV.UK

8. The complainant stated:

"I am not satisfied that no record exists. The meetings are listed as political and policy discussions so someone must have been paying attention to what happened and made a note.

It cannot be in the interests of democracy that media executives have secret meetings with the Prime Minister on matters of policy and politics and no records are kept. Please review all notes".

9. The Cabinet Office provided the internal review on 28 April 2023. The review found that the original response had correctly dealt with the request. Citing the explanation provided in the original response, the Cabinet Office stated:

"It follows that the Government publishes details of meetings with senior media executives irrespective of whether those meetings are official, political or social. The meetings you referred to in your request were political. They therefore did not relate to official business and, as a consequence, no official information is held by the Cabinet Office which searches confirmed at the time".

10. With regard to the complainant's contention that it cannot be in the interests of democracy for meetings on matters of policy and politics to be conducted without records being kept, the Cabinet Office stated that, "is not a matter for this internal review".

11. The Cabinet Office advised:

"The Act concerns access to official information. As noted above, the meetings you requested information about were political and not official and it therefore follows that the Cabinet Office correctly informed you that it did not hold information within the scope of your request".

Scope of the case

12. The complainant contacted the Commissioner on 28 April 2023 to complain about the way his request for information had been handled. The complainant advised the Commissioner that he disagreed with the Cabinet Office's position that they did not hold the requested information and believed that the Cabinet Office held "more information than it has sent" (though to be clear the Cabinet Office had not provided any information).

13. The Commissioner considers that the scope of his investigation is to determine, on the balance of probabilities, whether the Cabinet Office hold the information requested by the complainant.

Reasons for decision

Section 1(1): General right of access to information

14. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any procedural sections or exemptions that may apply. A public authority is not obliged under the Act to create new information in order to answer a request.
15. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, 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.
16. In the circumstances of this case, the Commissioner will determine whether, on the balance of probabilities, the Cabinet Office holds (or held at the time of the request) recorded information that falls within the scope of the request.

The Cabinet Office's position

17. In submissions to the Commissioner, the Cabinet Office advised that a special adviser had attended the meeting between Prime Minister Johnson and Mr Verity on 9 August 2022 and two special advisers had attended the meeting between Prime Minister Truss and Mr Thomson on 20 September 2022. The Cabinet Office stated that the presence of special advisers at the meeting of 20 September 2022 to the exclusion of civil servants "underlines the political role that they (special advisers) have and the political aspect of governing which necessitates the very existence of special advisers".
18. The Cabinet Office advised that they were satisfied, based on searches undertaken at the time of the request, that "no information **of any kind**" (Commissioner's emboldening) was held within the scope of the request. The Cabinet Office advised that officials in the Prime Minister's Office conducted a search of the official record and searched for the following terms:
 - "Robert Thomson"

- "News Corp"
 - "Chris Evans"
 - "Daily Telegraph"
 - "Ted Verity"
 - "Daily Mail"
19. The Cabinet Office advised that the searches were conducted "within the parameters of 10 days either side of each meeting" and that no relevant information was returned.
20. The Cabinet Office stated that they were satisfied that they held no information within the scope of the request and that, "for the avoidance of doubt we are not aware that any notes, briefing or minutes exist in any form".
21. Notwithstanding that position, the Cabinet Office advised that they considered it relevant to set out their view as to the distinction for the purposes of FOIA between meetings at which official business and political matters are discussed by Ministers.
22. The Cabinet Office noted that paragraph 8.14 of the Ministerial Code states:
- "Meetings with newspaper and other media proprietors, editors and senior executives will be published on a quarterly basis regardless of the purpose of the meeting".
23. The Cabinet Office advised that these provisions were introduced under Prime Minister David Cameron's premiership in July 2011, in response to the events that lead to the Leveson Inquiry. "There was a recognition that senior politicians may engage with senior media executives outside the world of government, and that there should be transparency on non-government engagement."
24. The Cabinet Office advised that their associated guidance to departments on transparency returns explains that "meetings with people within this category should be recorded regardless of whether it was in an **official**, **political** or **social** capacity". To be clear, the Commissioner understands that this means that there should be a record made of such a meeting having taken place, as opposed to information being recorded about the details of what was discussed during the meeting.
25. With regard to the meetings within the scope of the complainant's request, the Cabinet Office contended that the meetings were of a

political or social (rather than official) character and that any information which would be held relating to them would not be officially held. The Cabinet Office stated that, “the fact of political or social meetings being listed in the published transparency data reflects the requirements of the Ministerial Code and does not mean that the meetings were in the conduct of official business”.

26. The Cabinet Office noted that the meetings of 9 August and 10 August 2022 were explicitly referred to as “Political Discussion” and they considered that it was apparent from this that the meetings would not have concerned official Government business and that any information held would not be held for the purposes of FOIA.
27. The Cabinet Office also referenced the Cabinet Office (and The National Archives) *Guidance on the management of Private Office Papers*². The Cabinet Office highlighted Paragraph 10 of the Guidance, which states that:

“Any party political records which are handled by Ministerial Private Offices should be kept separately and outside the scope of this guidance. Such records should be kept separately and managed in accordance with Ministers’ wishes”.

28. They also highlighted Paragraph 12(iv), which states that:

“In some instances meetings will be purely informal or of a social nature and no record needs to be created. This category will include party political meetings.”

29. The Cabinet Office contended that the meetings which were the subject of the complainant’s request were such occasions and stated that, “the absence of information in the official record reflects that”. The Cabinet Office stated that:

“There is no requirement in public records legislation or guidance for minutes to be taken of social or political meetings with senior media executives. It is not unusual for informal political meetings to be conducted in a way that does not involve formal briefing, notes or minutes. The same would apply to social meetings. Axiomatically, this reflects the fact that they are not government or official meetings”.

² <https://cdn.nationalarchives.gov.uk/documents/popapersguidance2009.pdf>

The Commissioner's decision

30. The Commissioner recognises and accepts that for meetings between Ministers (including the Prime Minister) and senior media executives of a purely political or social nature, there would be no expectation that information would be recorded and held about what was discussed at such meetings. The Commissioner also accepts that any information held by the Cabinet Office of a purely political nature, would not be held for the purposes of FOIA.
31. However, the Commissioner considers that if the Cabinet Office had held any information relevant to the complainant's request, then any such information may *potentially* (depending on its content and subject matter) have been information held under FOIA (though any such information may have been exempt from disclosure under one or more of the exemptions under the Act).
32. However, the Cabinet Office have confirmed, regardless of the distinction which they have drawn above, that they hold no information "of any kind" relevant to the complainant's request. The Commissioner considers that the searches (including search terms used) undertaken by the Cabinet Office at the time of the request were reasonable and proportionate and that they would have been likely to identify any relevant recorded information if this had been held.
33. Consequently, the Commissioner has found, on the balance of probabilities, that the Cabinet Office do not hold any information within scope of the complainant's request.

Right of appeal

34. 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

35. 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.
36. 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

**Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
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Wilmslow
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SK9 5AF**