

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 February 2023

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant has requested information about any decisions made to block members of the public email addresses, in order to prevent correspondence and access to written responses from the Cabinet Office, during the period June to September 2020. The Cabinet Office advised that they do not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the Cabinet Office do not hold the information requested.
3. The Commissioner does not require further steps.

Request and response

4. On 23 September 2020, the complainant wrote to the Cabinet Office and requested information in the following terms:
'Please supply copies of recorded information written down or opinions, in any form, that was considered or written down, in particular with regard to the making of any decisions to prevent further correspondence and access to written responses from the Cabinet Office. During the period June 2020 to date'.
5. The Cabinet Office acknowledged receipt of the request on 28 September 2020 and provided the complainant with a substantive response to the request on 15 October. The Cabinet Office advised that following a search of their paper and electronic records, they had established that they did not hold the information requested.

6. The complainant requested an internal review on 15 October 2020. She stated that:

The fact that the Cabinet Office do block emails, to prevent members of the public from further communication, would indicate that there must be a policy in place in order to authorise the same. The time span I have requested for the Cabinet Office to conduct their search, June 2020 to date, is very small, so it should not be too difficult to find some examples. These would therefore include the reasoning, guidance, policy, evidence or opinion used to lawfully make the decision(s) to block email correspondence'.

7. The Cabinet Office provided the internal review on 6 November 2020. The review advised that the Cabinet Office 'does not have a policy to block emails of members of the public' and upheld the original response to the request (i.e. that no relevant information was held). The review provided the complainant with a Cabinet Office email address publiccorrespondence@cabinetoffice.gov.uk and recommended that she use that address if trying to contact a specific person or team in the Cabinet Office.

8. The complainant wrote to the Cabinet Office on 6 November 2020 and thanked them for confirming that the Cabinet Office does not have a policy in place to block emails from members of the public and for the email address provided. The complainant stated:

'However, this is in fact the email I used to contact the Cabinet Office with a serious complaint, and after initial correspondence, as the subject matter was clearly unpalatable to them, further emails were not acknowledged by the automated system or responded to.

I then used a different email address, which initially received an automatic reply, then a further email was not responded to.

This therefore led me to believe that there must be a policy in place to block emails from members of the public, when the Cabinet Office decide they would rather not deal with the issue at hand.

Whether the Cabinet Office has a written policy or not, does not detract from the fact, that in reality, they block members of the public emails, certainly mine.

There is obviously an "unwritten" policy in place, and clearly a directive and/or guidance must be given by someone?

Therefore, this unwritten policy diminishes transparency, which nobody in the Cabinet Office appears to want to take responsibility for, so will now form a complaint to the Information Commissioner's Office'.

Scope of the case

9. The complainant contacted the Commissioner on 30 November 2020 to complain about the way her request for information had been handled. The complainant advised that:

'I have had two different email addresses blocked when submitting an inquiry to the Cabinet Office. I made a FOI via WDTK, regarding what policy is in place to allow them to do so, but they deny having a written policy in place to block members of the public's emails. I am able to demonstrate and have the evidence to prove they do block emails. This "unwritten" policy diminishes transparency, and in reality, someone must authorise the blocking of emails, which undermines democracy and lacks accountability by a Government Body'.

10. The Commissioner considers that the scope of his investigation is to determine whether the Cabinet Office hold the information requested by the complainant in her information request of 23 September 2020.

Reasons for decision

Section 1 (Held/Not Held)

11. Section 1(1) of the Freedom of Information Act 2000 (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'.*

12. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held.

13. For clarity, the Commissioner is not expected to prove categorically whether the information is held, but rather he is required to make a

judgement on whether the information is held, on the civil standard of the balance of probabilities.

14. The Commissioner explained to the complainant that from the information provided, it would appear that the Cabinet Office had allegedly not acknowledged or responded to emails sent to (and safely received by) publiccorrespondence@cabinetoffice.gov.uk. This should be distinguished from the complainant's allegation that the Cabinet Office has in place a policy of preventing (i.e. blocking) emails from being sent to them by members of the public. In correspondence with the Commissioner the complainant acknowledged that, *'perhaps rather than use the word "blocked" I should use the verb "stonewalled" instead?'*
15. The Commissioner explained to the complainant that the term 'stonewalled' is one which has been used by some individuals and groups (such as openDemocracy¹) to describe the situation where the Cabinet Office (or other public authority) fails to provide a response to an information request made under the FOIA (i.e. they fail to engage with the FOI process). Such failures to provide responses to FOI requests are breaches of the Act and such breaches fall within the remit of the ICO as it is the Commissioner's role as regulator to ensure that public authorities comply with their statutory duties under the FOIA.
16. However, the above situation is different to the position where the Cabinet Office (or other public authority) declines to respond to correspondence received from a member of the public about a matter which *does not* involve a request for identifiable and recorded information. Such correspondence does not fall within the FOIA and the Act places no requirement or obligation upon a public authority to enter into, or continue with, such correspondence with an individual (although clearly it would be courteous to do so where possible and within reason).
17. In the present case the Commissioner notes that the Cabinet Office did not 'stonewall' the complainant's information request of 23 September 2020 in that they provided a response on 15 October 2020 which advised that they did not hold the information requested. The Cabinet Office confirmed this position to the complainant in their internal review of 6 November 2020.
18. The Commissioner would emphasise that the Cabinet Office choosing (for whatever reason) not to correspond or reply to emails received from members of the public (including those sent by the complainant), is not

¹ [Art of Darkness | openDemocracy - DocumentCloud](#)

the same as 'blocking' or 'stonewalling' such emails. On the complainant's own account, she made a '*serious complaint*' to the Cabinet Office and after initial correspondence her further emails were not acknowledged or responded to. However, this does not accord with information provided to the Commissioner by the Cabinet Office.

19. In response to written enquiries from the Commissioner, the Cabinet Office provided the Commissioner with copies of two emails which they had had with the complainant during the period covered by her request. In one email, dated 17 September 2020, the Cabinet Office write to thank the complainant for her emails '*regarding the Civil Service code*'. In the email the Cabinet Office apologise for the significant delay in responding to the complainant's correspondence, caused by their receiving a higher amount of correspondence than usual as a result of the Covid-19 pandemic.
20. The Cabinet Office informed the complainant that '*after careful review*', they had transferred her '*complaint*' to the Ministry of Justice (MoJ) as it fell under the MoJ's policy responsibility. The Cabinet Office advised that the MoJ had picked up the matter and would aim to get back to the complainant soon. The email provided the complainant with appropriate contact details for the MoJ.
21. In the second email, dated 18 September 2020, the Cabinet Office replied to an email received from the complainant (presumably in response to their email of 17 September), and confirmed that the Cabinet Office's Propriety and Ethics Team had concluded that the MoJ was best placed to '*respond to your query*'. The complainant was informed that she would be contacted either by the sender of the Cabinet Office email or by a colleague in the MoJ to let her know when she could expect a response. The Commissioner notes that one week later, the complainant made the information request to the Cabinet Office which is the subject of this notice.
22. The above two Cabinet Office emails seen by the Commissioner show that far from blocking the complainant's correspondence, they had acknowledged receipt of the same and had transferred the matter to the MoJ to provide an appropriate response to the complainant.
23. The Commissioner notes that in the Guide to Handling Correspondence², issued by the Cabinet Office, it is stated that, '*correspondence will*

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1008447/Guide_to_Handling_Correspondence_-_July_2021.pdf

sometimes need to be transferred to another department for a reply; this will only happen if the receiving department does not hold policy responsibility for all or the majority of the matters raised in the correspondence'. Although the latest version of this guide was issued in July 2021, the Cabinet Office confirmed to the Commissioner that the guide remained largely unchanged from what the position had been at the time of the complainant's correspondence with the Cabinet Office in 2020.

24. The Guide makes clear that in certain situations, departments may wish, with the approval from their ministers (for ministerial correspondence) or head of correspondence unit (for public correspondence), to decide it is not appropriate to respond to a piece of correspondence. This is where the correspondence:
- Contains offensive language;
 - Is illegible;
 - Is selling or promoting a product;
 - Is for information only;
 - Is in a foreign language; and/or
 - Is vexatious (in these instances, however, departments should ensure they have fully responded to the correspondent on the matter and then informed the correspondent that they will not be issuing any further replies as the department is unable to provide any additional information).
25. The Guide contains no reference to any policy of 'blocking' or 'stonewalling' email addresses from members of the public or correspondence from members of the public. As noted above, the circumstances in which a department may legitimately decide not to respond to a piece of correspondence from a member of the public are limited and specific.
26. The complainant has been unable to provide the Commissioner with any evidence which shows or demonstrates that the Cabinet Office has a policy of 'blocking' (or 'stonewalling') members of the public's email addresses, *'in order to prevent further correspondence and access to written responses from the Cabinet Office'*. Moreover, it is clear from the emails provided by the Cabinet Office, that they appropriately acknowledged the complainant's correspondence in September 2020 and transferred the matter to the MoJ to provide an appropriate response, in keeping with the Guide.

27. This, taken together with the Cabinet Office confirmation that they do not have a policy of blocking emails from members of the public (and it would not be expected that they would have such a policy), means that the Commissioner is satisfied, on the balance of probabilities, that the information requested by the complainant is not held by the Cabinet Office.
28. The Commissioner recognises and acknowledges that the Cabinet Office (or indeed the MoJ) may have chosen not to correspond further with the complainant on some of the issues/concerns which she has written to them about. However, providing the complainant's correspondence has not taken the form of a request(s) for recorded information, the Cabinet Office are under no requirement or obligation under the FOIA to respond (or continue to respond) to the complainant's correspondence. The Commissioner understands and appreciates that this will be frustrating for the complainant, but it is not a matter which the Commissioner can address or consider under his FOIA remit.
29. The Commissioner would note that if the Cabinet Office did have an *unwritten* policy of blocking emails from members of the public, as contended by the complainant, there would be no recorded information to fall within the scope of an information request for such a policy. That is to say, there would still be no information held by the Cabinet Office.
30. For the reasons explained above, the Commissioner is satisfied that in this case, on the balance of probabilities, the Cabinet Office do not hold recorded information within scope of the complainant's request of 23 September 2020.

Right of appeal

31. 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

32. 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.
33. 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
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