

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 December 2011

Public Authority: English Heritage
Address: The Engine House
Fire Fly Avenue
Swindon
SN2 2EH

Decision (including any steps ordered)

1. The complainant has requested information about meetings between Simon Thurley, the Chief Executive of English Heritage, and His Royal Highness the Prince of Wales or any of His employee's or representatives. English Heritage refused to provide the complainant with the information it held within the scope of this request under section 37(1)(aa) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner's decision is that English Heritage has correctly applied the section 37(1)(aa) exemption in this case.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 5 July 2011 the complainant made a request to English Heritage for the following information:

"Please note that I am only interested in material which relates to the period May 6 to the present day.

1. *During the aforementioned period has Simon Thurley, the Chief Executive of English Heritage met with His Royal Highness the Prince of Wales.*
2. *If the answer to the above question is yes can you please list those occasion(s) when the two men have met? In the case of each meeting*

can you provide the date and venue for the meeting. In each case can you state whether the meeting was private or whether the two individuals met at a public function. In the case of each meeting could you provide details of the topic under discussion. In the case of each meeting can you please provide a list of all other individuals present.

3. *During the aforementioned period has Simon Thurley, the head of English Heritage met with any employee and or representative of His Royal Highness the Prince of Wales.*
4. *If the answer to the above question is yes – Can you please provide a list of the aforementioned individuals. In the case of each individual can you list the occasion(s) when they met Mr Thurley. In the case of each of these meetings could you also provide the venue and date. In the case of each meeting can you please provide a list of individuals present. Can you also state what the meetings were about."*
5. English Heritage provided a response to the complainant on 2 August 2011 in which it said it held information relevant to the first half of the request but refused to disclose the information on the basis of the exemption contained in section 37(1)(aa).
6. The complainant requested an internal review of the public authority's decision to apply section 37(1)(aa) on 2 August 2011. On 18 August 2011 the public authority wrote to the complainant with the details of the result of the internal review it had carried out. It confirmed that one meeting took place between Simon Thurley, the Chief Executive of English Heritage and His Royal Highness the Prince of Wales during the time period of the request but refused to provide any further information under section 37(1)(aa).

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner will determine whether English Heritage was correct to apply section 37(1)(aa) to withhold the information it holds relevant to the scope of the request.

Reasons for decision

9. Section 37(1)(a) was amended on 19 January 2011 to include Section 37(1)(aa).¹ Section 37(1)(aa) of FOIA provides that, information is exempt information if it relates to communications with the heir to, or the person who is for the time being second in line of succession to, the Throne. This section applies to requests made on or after 19 January 2011.
10. English Heritage explained to the Commissioner that it has confirmed to the complainant that one meeting took place which falls within the scope of point 1 of the request. It confirmed that it does hold further information which falls within the scope of point 2 of the request however this was exempt from disclosure under section 37(1)(aa) of the FOIA. It confirmed that no information was held that fell within the scope of points 3 and 4 of the request.
11. English Heritage confirmed that as the Prince of Wales is the heir to the Throne the withheld information concerns a member of the Royal Family who is covered by the section 37(1)(aa) exemption. It also confirmed that the information being withheld is details relating to the one meeting between the Prince of Wales and Simon Thurley, Chief Executive of English Heritage. It therefore explained that the withheld information relates to communications with the heir to the Throne.
12. The withheld information has been disclosed to the Commissioner for the purposes of his investigation. He considers that it does clearly relate to communications with the heir to the Throne and therefore falls squarely within the scope of the section 37(1)(aa) exemption.
13. As section 37(1)(aa) is an absolute exemption there is no requirement to consider the public interest test in this case.
14. The Commissioner's decision is that section 37(1)(aa) was correctly engaged in this case to justify withholding the requested information.

¹ <http://www.justice.gov.uk/guidance/docs/foi-exemption-s37.pdf>

Right of appeal

15. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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

Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF