

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 January 2017

Public Authority: Science Museum Group
Address: Science Museum
Exhibition Road
London
SW7 2DD

Decision (including any steps ordered)

1. The complainant has requested the Science Museum Group (the Museum) to disclose information relating to any security meetings, training or briefings that have involved BP in 2015. The Museum disclosed some information but redacted other information under section 40 of the FOIA.
2. The complainant's concerns were that further recorded information may be held falling within the scope of his request and that the Museum may have incorrectly applied section 40 of the FOIA to some of the withheld information.
3. The Commissioner's decision is that, on the balance of probabilities, the Museum has now identified all recorded information falling within the scope of the request and, with the exception of information exempt under section 40 of the FOIA, has now disclosed this to the complainant.
4. In relation to the application of section 40 of the FOIA, the Commissioner is satisfied that this exemption applies to the remaining withheld information.
5. The Commissioner therefore does not require any further action to be taken.

Request and response

6. On 18 January 2016, the complainant wrote to the Museum and requested information in the following terms:
 - "1) Have any members of the Science Museum's staff attended or taken part in security briefings or training hosted/organised by BP, or attended any meeting with BP security personnel, in 2015?
 - 2) If the answer to (1) is yes:
 - a) Please give the date, time and location of any such security briefings, sessions and training.
 - b) Please disclose any related correspondence between the Science Museum and BP in relation to those briefings, trainings or meetings.
 - c) Please disclose the agenda, minutes and/or a summary of the remit/scope of those briefings, trainings or meetings.
 - d) Please indicate whether any of those briefing, trainings or meetings addressed or discussed potential or past protest activity at cultural institutions on the issue of oil sponsorship."
7. The Museum responded on 28 January 2016. In response to question one the Museum confirmed that a meeting took place in relation to the final preparations for the launch of the Cosmonauts Exhibition in which security matters were discussed. In addition, its security team liaised with BP's security team in preparation for the Exhibition's launch event. In relation to question two a), the Museum confirmed that the meeting took place on 11 September 2015 at 14:00 at BP's London Office. Some attendees were in person, some joined by telephone. Concerning parts b) and c) the Museum advised that no recorded information is held and in relation to part d) confirmed that a discussion took place regarding recent protest activity at other museums and the potential for protest activity at the launch event.
8. The complainant had reasons to believe that further meetings had taken place to the one disclosed and that further recorded information is held so he requested the Museum to carry out an internal review on 10 February 2016.
9. The Museum carried out an internal review and notified the complainant of its findings on 3 March 2016. In relation to the meeting of 11 September 2015 the Museum now confirmed that it does hold recorded information albeit very limited and disclosed this to the complainant. The Museum also identified a further three meetings that had taken

place falling within the scope of the request and confirmed that these took place on 3 February 2015, 12 February 2015 and 8 May 2015. It disclosed the recorded information it holds relating to these three meetings to the complainant. The Museum redacted some personal data from the disclosures citing section 40 of the FOIA.

Scope of the case

10. The complainant contacted the Commissioner 22 June 2016 to complain about the way his request for information had been handled. As the Museum acknowledged at the internal review stage that inadequate searches had initially been undertaken, the complainant wished to question further whether all recorded information has been identified. The complainant confirmed that he has potential concerns about the obfuscation of information and is aware, at least, from a request to another public authority that an agenda item for the meeting of 3 February 2015 should be held. Yet the Museum has not to date located or indeed mentioned this agenda.
11. During the Commissioner's investigation further recorded information was located and disclosed (the missing agenda and a few brief emails), with personal data redacted under section 40 of the FOIA. The complainant confirmed that he still required the Commissioner to ensure that sufficient searches had now been undertaken and that no further information is held and to consider the application of section 40 of the FOIA to the agenda item. The remainder of this notice will address these two main points.
12. During the Commissioner's investigation discussions also took place about the application of section 40 of the FOIA and further personal data, which the Commissioner considered it would be fair to disclose, was indeed disclosed to the complainant. The Museum also sent up to copies of all relevant previously disclosed information to reflect this change. In terms of section 40, as stated above, the Commissioner has only been asked to consider the agenda item for the meeting of 3 February 2015 and at the time of writing this notice only the personal data of two attendees remained withheld. To clarify, it is this personal data that the Commissioner will consider in more detail below.

Reasons for decision

Is further recorded information held?

13. As stated above, the complainant is concerned that the Museum may not have identified all the recorded information it holds and may not have carried out sufficient searches. Further recorded information was identified at the internal review stage as a result of the complainant's further questioning and, then, during the Commissioner's investigation when a third review and search was undertaken. He has received conflicting responses to similar requests made to other public authorities and identified himself that one particular item – the agenda for the meeting of 3 February 2015 – was circulated to all attendees yet not identified until it was brought to the Museum's attention.
14. The Museum informed the Commissioner that it accepts the initial searches it carried out were inadequate and appropriate measures have now been taken to ensure that this does not happen again. Detailed searches of all records and thorough enquiries to all relevant members of staff have been made. It has also carried out a full sweep of its systems for 2015 searching the accounts of all relevant members of staff for any information involving BP staff and security. It is satisfied that it has now identified all the recorded information it holds and disclosed this (with personal data redacted where necessary) to the complainant.
15. The Museum explained that it does not rely on external sources of security intelligence. The Museum is well briefed by its own security provider and it works closely with its neighbours and organisations across the sector and the appropriate agencies to ensure that its visitors and staff can feel confident in their safety during their time in the Museum. Both the meeting of 3 and 12 February 2015 were not fundamental to the Museum's knowledge of security issues and no new or unique information was discussed. As a result no notes were taken of these meetings and no internal correspondence took place before them or afterwards in which the contents of the meetings were discussed. The Museum described the 12 February 2015 meeting as a Police initiative that is run periodically and hosted at different locations. It is a multimedia simulation that is aimed at raising awareness and providing practical advice.
16. On the balance of probabilities the Commissioner is satisfied that after three separate and detailed searches of records the Museum has now identified all relevant recorded information that it holds. This has been disclosed to the complainant with the exception of some personal data (which the Commissioner will address below) of third party individuals. She appreciates the complainant's concerns about the adequacy of initial searches and how this will have led to the complainant doubting the responses received. However, it is noted that the Museum has now acknowledged these initial failings, carried out further searches including a full sweep of its systems for 2015. It has also tried to reassure the

complainant and the Commissioner that steps have been taken to ensure that this does not happen again. The Commissioner is of the view that there is no reason to doubt that all relevant information has now been identified and therefore there are no further steps that can be taken.

Section 40 – personal data

17. Section 40(2) of the FOIA states that information is exempt from disclosure if it constitutes the personal data of a third party and disclosure of that data would be in breach of any of the data protection principles outlined in the Data Protection Act (DPA).

18. Personal data is defined as:

..."data which relate to a living individual who can be identified-

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

And includes any expression of opinion about that individual and any indication of the intentions of the data controller or any other person in respect of the individual..."

19. The Commissioner considers the first data protection principle is most relevant in this case. The first data protection principle states -

"Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met."

20. The Commissioner must first consider whether the requested information is personal data. If she is satisfied that it is, she then needs to consider whether disclosure of this information would be unfair and unlawful. If she finds that disclosure would be unfair and unlawful the information should not be disclosed and the consideration of section 40 of the FOIA ends here. However, if she decides that disclosure would be fair and lawful on the data subject concerned, the Commissioner then needs to go on to consider whether any of the conditions listed in schedule 2 and 3 (sensitive personal data) if appropriate are also met.

Is the requested information personal data?

21. As detailed above, the Commissioner has only been asked to consider the redaction of the names and job titles of two attendees of the meeting of 3 February 2015 in this investigation. The Commissioner is satisfied that an individual can be quite obviously identified from their name. She is also satisfied that an individual could be potentially identified by their job title too whether from this information alone or from the job title and other information which may be obtainable or otherwise available. The Commissioner is therefore satisfied that the withheld information falls within the definition on personal data.

Would disclosure be unfair?

22. The disclosed agenda item reveals that there were 13 attendees at this meeting from a variety of institutions. Initially, all 13 attendees were redacted by the Museum under section 40 of the FOIA. However, the Commissioner identified that 11 of these attendees are (or were at the time) senior members of staff within the organisation they worked for and it was possible to retrieve information about these individuals on the internet with a simple google search. It was therefore the Commissioner's opinion that it would not be unfair to disclose this information under the FOIA. The 11 attendees held senior roles or roles that required accountability at this time and they were clearly representing their organisation at this meeting. As these 11 attendees could be easily found from a simple google search in connection with their employer it was the Commissioner's opinion that they also held public facing roles and would hold a reasonable expectation that certain information relating to the roles they undertake for their employer may be made publically available.
23. The Museum also, initially, raised concerns that disclosure would reveal the very fact that these attendees attended this meeting and it involved BP in some way. However the Commissioner did not agree. The Museum confirmed itself that the meetings were fairly mundane and did not discuss any new information or contentious issues relating to BP, its relationship with the Museum or security. These attendees were also acting in their official working capacity for their employer and some worked in either security or corporate relations. The Commissioner felt it would be relatively easy to correctly assume that staff from security and corporate relations would attend this sort of meeting. It involved BP in some way so one would expect a member of staff involved in the ongoing sponsorship relationship to attend. It also involved security. Again one would expect a member of staff responsible for or involved in security at the organisations to attend.
24. The two remaining redactions contain the names and job titles of two attendees who either held a more junior position in the organisation they worked for and/or could not be easily found on the internet. The

Commissioner felt it was appropriate to take a more cautious approach to disclosure here as a result of this and overall agrees that section 40 of the FOIA should apply.

25. The two members of staff do not work for the Museum but another public authority and a private organisation. The Museum is therefore restricted in knowing what these attendees' expectations would be on disclosure and exactly what roles and tasks they perform for their employer. It is also restricted in knowing whether they hold public facing roles. The Commissioner considers it is only fair to assume that as these individuals cannot be located on the internet like the 11 other attendees they will not have the same level of expectation on potential public disclosure.
26. If these individuals hold more junior positions or non-public facing roles it would be unfair to disclose their personal data in response to this request. Less junior members of staff are generally not responsible for important decision making within the organisation they work for – decisions that could be argued require accountability and transparency. Staff in non-public facing roles will also hold less expectation that their personal data could be disclosed under the FOIA when compared to public facing employees. They may expect more privacy and so disclosure may cause them unwarranted distress and intrusion.
27. The Commissioner understands that there is a legitimate public interest in the disclosure of information which will reveal more transparency and accountability within a public authority. But this must be weighed up against any distress or intrusion disclosure may cause the data subjects concerned. The Museum has already disclosed the majority of this agenda item and the names and job titles of all senior attendees or attendees who hold public facing roles. The Commissioner considers this meets any legitimate public interest that exists. It is now publically known when the meeting took place, where, which organisations attended and the majority of attendees. The Commissioner does not consider any further transparency would be gained from the disclosure of the names and job titles of the two remaining attendees. Any legitimate public interest in this information (which in the Commissioner's opinion would be very limited) is outweighed by the potential distress disclosure could cause these data subjects and the unwarranted intrusion that could result.

Right of appeal

28. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.
30. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF