

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 July 2024

Public Authority: Department for Environment Food & Rural Affairs

Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested correspondence between Michael Gove and the then Prince Charles over a specified time period. Defra stated it held no information within the scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, Defra does not hold any information in scope of the request.
3. The Commissioner does not require any steps.

Request and response

4. On 14 February 2024, the complainant wrote to Defra and requested information in the following terms:

"Please note that I am only interested in that correspondence and communication generated between 1 January 2019 and 1 May 2019.

1. During the aforementioned period did Prince Charles write to and or communicate with Michael Gove.
2. If the answer to question one is yes can you please provide a copy(ies) of this correspondence and communication.

3. During the aforementioned period did Michael Gove write to and or communicate with Prince Charles.
4. If the answer to question three is yes can you please provide a copy of this correspondence and communication.
5. Defra responded on 4 March 2024 and stated the information was not held. Following an internal review Defra responded further on 5 March 2024 upholding its decision and providing some additional details of the searches it had carried out.

Scope of the case

6. The complainant contacted the Commissioner on 6 March 2023 to complain about the way their request for information had been handled.
7. The Commissioner considers that the scope of his investigation is to determine if Defra holds any information in scope of the request.

Reasons for decision

8. Section 1 of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be information 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."

9. 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.
10. The complainant had queried whether the information, if held, would fall under the Environmental Information Regulations 2004 (EIR).
11. The request asked for correspondence between the then Prince Charles and Michael Gove. It did not specify what theme or topic the correspondence should be on. The complainant argues that given it is known King Charles has a keen interest in environmental issues any

information, if held, would be likely to be on environmental issues and thus fall under the EIR.

12. The Commissioner's view is that, given there is no indication as to what subject the information, if held, may cover it is not unreasonable for Defra to have considered the request under FOIA in the first instance.
13. In terms of whether information in scope of the request is held, Defra explained that it conducted searches of its electronic records, specifically as the information request asked for communications, the searches focused on email accounts and shared depositories where electronic files would normally be stored. As the request involved the Secretary of State Defra searched within the Defra Private Office. The search terms used were "Prince of Wales", "Prince Charles" and "Michael Gove". No results were returned for the time period specified in the request.
14. The request related to information from 2019 so for completeness, Defra also consulted with its Records Management Team to search physical paper and electronic records using the same search terms and again no results were returned. Defra considered that these searches were sufficient to locate any information, if held, given the broad nature of the request.
15. The Commissioner's view is that, on the balance of probabilities, Defra does not hold information in scope of the request. He considers the searches carried out were proportionate, reasonable and would have been likely to return any relevant information were it held. The request was not specific about subject matter so it was reasonable for Defra to search with reference to sender/recipient as the search terms and within the specified time frame.
16. There is no contradictory evidence available to the Commissioner that indicates Defra's position is wrong. On this basis, the Commissioner is satisfied that, on the balance of probabilities, Defra does not hold any information falling within the scope of the complainant's request.

Right of appeal

17. 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

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Jill Hulley
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