

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 8 November 2022

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

### Decision (including any steps ordered)

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1. The complainant has requested information regarding correspondence from 1987 between the then Prince of Wales and the then Prime Minister. The Cabinet Office maintained that it did not hold the requested information.
2. The Commissioner's decision is that the Cabinet Office does not hold the requested information. The Commissioner does not require any steps to be taken.

### Request and response

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3. On 24 November 2020 the complainant requested the following information from the Cabinet Office:

"Please note that I am only interested in information generated between 12 June 1987 and 12 December 1987.

1. During the aforementioned period did the Prince of Wales write to Mrs Thatcher about any of the topics and issues listed in points a to e below. If the answer is yes can you please provide copies of this correspondence and communication.
  - a. The problems faced by the UK's BAME communities including racism, discrimination and economic disadvantage.
  - b. The problems posed by unemployment (affecting all communities including but not limited to the BAME communities).

- c. Britain's inner-city areas. This will include correspondence and communication about particular inner-city areas or the problems faced by inner-city areas in general. The correspondence and communication will include information relation [sic] to the overall decline of inner cities and or the reasons for that decline, the impact of that decline on people living there as well as measures to re-generate the inner-city areas.
  - d. The membership, work, and impact of an organisation called Business In the Community (BITC). This will include but will not be limited to information about the best way in which the government could fund or support the work of BITC.
  - e. The membership, work, and impact of organisation [sic] called Inner City Aid. This will include but will not be limited to information about the best way in which the government could fund or support the work of Inner-City Aid.
2. During the period did Mrs Thatcher reply to this correspondence and communication or did she write to the Prince about any of the points outlined in 1 a to e. If the answer is yes can you please provide copies of this correspondence and communication.
  3. If information relevant to questions one and two of this request has been transferred to an archive(s). Can you identify the archive(s) and dates of transfer? Can you provide any relevant file names and references for the files transferred?
  4. If information relevant to questions one to three of this request has been destroyed can you please provide the following information.
    - i) Can you identify which documents have been destroyed and why? Can you also state the date when they were destroyed?
    - ii) In the case of each destroyed piece of correspondence and communication can you identify the author(s), the recipient(s) and the date generated?
    - iii) If any destroyed documentation continues to be held in another form can you please provide copies of that documentation.

4. The Cabinet Office responded on 22 December 2020. It stated that it did not hold any of the requested information, and that if it had been held it would have been transferred to The National Archives (TNA).<sup>1</sup> The Cabinet Office also suggested that the complainant consult the Margaret Thatcher Foundation Archive.<sup>2</sup>
5. The complainant requested an internal review on 28 December 2020 and the Cabinet Office provided him with the outcome of that review on 19 February 2021. It maintained that it did not hold the requested information.

## Scope of the case

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6. On 7 May 2021 the complainant contacted the Commissioner to complain about the Cabinet Office's response.
7. The complainant did not accept the Cabinet Office's position that it did not hold the requested information. He explained that he had already examined the open files held by TNA and was in the process of seeking access to closed files and extracts.
8. The request in this case refers to the Prince of Wales, who acceded to the Throne on 8 September 2022. For clarity, this decision notice refers to the Prince of Wales rather than the Sovereign.

## Reasons for decision

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### Section 1: information held by a public authority

9. Section 1 of FOIA says that public authorities are required to respond to requests for information. The authority is required to disclose information in response to a request, unless an exemption or exclusion applies. If a public authority does not hold recorded information that would answer a request, the Commissioner cannot require the authority to take any further action.
  10. In cases where there is a dispute as to the information held by a public authority, the Commissioner will apply the civil standard of
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<sup>1</sup> <https://www.nationalarchives.gov.uk/>

<sup>2</sup> <https://www.margaretthatcher.org/archive>

proof, ie the balance of probabilities. In order to determine such complaints the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request.

11. Accordingly the investigation will consider the scope, quality, thoroughness and results of the searches, and/or other explanations offered by the public authority as to why the information is not held.
12. The Commissioner will also consider any arguments put forward by the complainant as to why the information is likely to be held (as opposed to why it ought to be held). Finally, the Commissioner will consider whether there are any further steps the public authority could be required to take if the complaint were upheld. If a public authority does not hold recorded information that falls within the scope of the request, the Commissioner cannot require the authority to take any further action.

### **The complainant's position**

13. The complainant put forward a number of arguments in support of his position that the Cabinet Office may hold relevant information.
  - i) An authorised biography of the Prince of Wales was published in 1984. The author, Jonathan Dimbleby, wrote that the Prince was particularly concerned with the issues described in the request, and said that the Prince regularly interacted with the Prime Minister regarding them.
  - ii) The Cabinet Office has a policy of not destroying the correspondence of the heir to the Throne. Therefore if the information existed at any time it should be possible to identify where it is held.
  - iii) The complainant advised that he had already studied the open files available at TNA, and had gone through the listed open and closed files. He said that the Cabinet Office was unable to confirm what material it had transferred and when those transfers took place.
  - iv) The Cabinet Office had advised that it only retains material if the classification is "Secret or above, or for other national security reasons". However the complainant argued that the Cabinet Office holds at least two files relating to the Prince of Wales (PREM 19/1927 and PREM 19/2473). The complainant considered it "highly likely" that the requested information would have been classified as Secret or above, owing to the sensitivity surrounding the Prince's correspondence. He

therefore argued that the Cabinet Office may not have transferred it to TNA.

### **The Cabinet Office's position**

14. The Commissioner asked the Cabinet Office how it had searched for the requested information, and how it was satisfied that it did not hold the information specified by the complainant. The Commissioner also asked the Cabinet Office for its response to the arguments put forward by the complainant.
15. The Cabinet Office confirmed that its formal records management policy stated that it would always preserve correspondence between the Government and the Royal Family. Such correspondence would subsequently be transferred to TNA in compliance with the Public Records Act 1958.<sup>3</sup>
16. The Cabinet Office confirmed that the Prime Minister's records from 1987 had been transferred to TNA for releases in December 2015,<sup>4</sup> February 2016<sup>5</sup> and July 2016.<sup>6</sup> However it emphasised that it did not keep an inventory of the contents of papers contained in files transferred to TNA. The Cabinet Office considered it possible that information relevant to the request may be contained within closed files, ie those which had not been made open to the public.
17. The Cabinet Office pointed out that it had advised the complainant that the relevant file series for the Thatcher administration files was PREM 19, which would enable them to search the TNA online catalogue using the search term "Royal Family". This would return 54 results, which the complainant could examine to see if any files were

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<sup>3</sup> <https://www.nationalarchives.gov.uk/information-management/legislation/public-records-act/public-records-system/>

<sup>4</sup> <https://webarchive.nationalarchives.gov.uk/20161003153436/http://www.nationalarchives.gov.uk/about/news/newly-released-files-from-1986-88/>

<sup>5</sup> <https://webarchive.nationalarchives.gov.uk/20161003161610/http://www.nationalarchives.gov.uk/about/news/files-from-1986-88-released/>

<sup>6</sup> <https://webarchive.nationalarchives.gov.uk/20161003143519/http://www.nationalarchives.gov.uk/about/news/more-files-from-1986-88-released/>

likely to hold information of interest. The complainant could also seek access under FOIA to any closed records.

18. The Cabinet Office confirmed that the requested information, if held, would only be held in paper format given its age, therefore it did not conduct electronic searches.

### **The Commissioner's findings**

19. The Commissioner acknowledges that there is a legitimate public interest in correspondence sent from the then heir to the Throne to the Government of the day. The Commissioner further acknowledges that the complainant has made arguments to support his assertion that the Prince of Wales corresponded with the Prime Minister regarding the issues described in the request.
20. However the Commissioner must reiterate that he is required to decide whether the requested information was held by the Cabinet Office at the time of the request. He is not required to determine whether the information exists, or has ever existed.
21. The Commissioner considers that the Cabinet Office has provided a detailed and persuasive account of its response to the request. The Commissioner accepts that the Cabinet Office has transferred to TNA the records it holds from the time period specified by the complainant.
22. The Commissioner notes that the Cabinet Office specifically preserves royal correspondence for transfer to TNA. He further notes that the complainant has been able to inspect the open files held by TNA, and to request access to the closed files.
23. The Commissioner is of the opinion that the complainant has not provided any evidence to suggest that the Cabinet Office holds information relevant to his request. Rather, the complainant has speculated that the Cabinet Office may not have transferred all the relevant records to TNA. However the Commissioner cannot attach any weight to such speculation without supporting evidence. It is always possible that relevant information has been misplaced or misfiled, but the Commissioner has seen no evidence to suggest that this is the case here.
24. The Commissioner is not persuaded that further searches would be likely to identify the requested information. He does not therefore consider it reasonable, proportionate or a good use of scarce resources, to require the Cabinet Office to undertake any further searches in respect of the complainant's request.

25. Accordingly, on the balance of probabilities the Commissioner accepts that the Cabinet Office does not hold any information relevant to the request.

### **Section 16: advice and assistance**

26. Section 16 of FOIA requires a public authority to provide advice and assistance to requesters. Public authorities are taken to have complied with section 16 if they have followed the recommendations set out in the Code of Practice (the Code) issued under section 45 of FOIA.<sup>7</sup>

27. Paragraph 2.12 of the Code recommends that:

“2.12 In most cases where a public authority does not hold the information, but thinks that another public authority does, they should respond to the applicant to inform them that the requested information is not held by them, and that it may be held by another public authority. The public authority should, as best practice where they can, provide the contact details for the public authority they believe holds the requested information.”

28. As set out at paragraph 17 above, the Cabinet Office directed the complainant to TNA in respect of transferred records. The Cabinet Office further provided explanatory information to assist the complainant in searching the TNA online catalogue.
29. The Commissioner also observes that the Cabinet Office provided the complainant with information regarding the Margaret Thatcher Archive (which is not itself a public authority under FOIA).
30. In light of the above the Commissioner considers that the Cabinet Office has complied with the requirements of section 16 of FOIA in offering appropriate advice and assistance to the complainant.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

## Right of appeal

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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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Sarah O’Cathain**  
**Senior Case Officer**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**