

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 17 October 2006

Public Authority: The National Archives
Address: Kew
Richmond
Surrey
TW9 4DU

Summary Decision

1. The complainant originally made the following request: "I would wish to apply under freedom of information for any information in the areas and on the grounds as set out in the attached letter to Buckingham Palace held by the National archives in relation to the Princess Margaret Townsend affair, and or any illegitimate child born on or about 05/01/55 to Princess Margaret." He subsequently made 637 requests "on the grounds previously stated" to individual closed documents displayed in the National Archives' (TNA) on-line catalogue and for the descriptions of documents where the file titles were not publicly available. The Commissioner considered representations from both parties and has decided that TNA has correctly applied sections 12 and 14 of the Act with regard to the cost limit and repeated requests.

The Commissioner's Duty

2. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

3. The complainant originally made the following request to the National Archives (TNA) on 12 May 2005: "I would wish to apply under freedom of information for any information in the areas and on the grounds as set out in the attached letter to Buckingham Palace held by the National archives in relation to the Princess Margaret Townsend affair, and or any illegitimate child born on or about 05/01/55 to Princess Margaret."

4. The complainant subsequently made 637 requests "on the grounds previously stated" to individual closed documents displayed in TNA's on-line catalogue and for the descriptions of documents where the file titles were not publicly available.
5. By mid-July 2005, the public authority claims that the complainant's requests represented 51% of all requests to TNA and state that they were placing a considerable strain on their resources for complying with statutory deadlines on Freedom of Information requests to other members of the public. This related to the amount of time required to research the requested records.
6. The public authority wrote to the complainant on 18 July 2005 offering to deal with the files he had requested in stages, suggesting he should select 50 files per month, which they would process. The complainant agreed to this proposal and TNA confirmed with him exactly what information he was looking for in these files, which both parties agreed to be any information relating to Princess Margaret, Group Captain Townsend, and any issues relating to illegitimacy and succession to the throne.
7. Whilst administering the initial 50 files, the complainant received a few responses where the information contained in the files was relevant to his enquiry. TNA also wrote and informed him when files did not contain any of the information requested. TNA state that this was the case with the majority of files.
8. Prior to the agreement of 19 July 2005, TNA had already responded to 184 of the complainant's enquiries; of those, 42 were documents that were retained by the Government department that created them. In relation to those documents, TNA referred the complainant to the department in question.
9. The complainant responded to TNA that he considered the agreement of 19 July 2005 to be that all files should be reviewed, regardless of content, on the basis that they "might be pertinent to my wider researches." TNA wrote to him on 18 August 2005 explaining that it was likely that the majority of files he requested would not contain any information on his topics of interest, and that they had to keep the staff time spent on his request at a level that would not disrupt their service to other enquirers.
10. TNA explained to the complainant that their resource limitations would not allow them to process more than fifty files per month without narrowing down the enquiry to the complainant's topics of interest. In view of this they offered him two alternatives: either that they would continue as before, looking at 50 files then only reviewing ones relevant to his topics to see if they could be made available, or they would look at the entire content of 15 files he requested per month, reviewing them to ascertain if they could be made available regardless of their relevance to his enquiry. While the complainant initially responded saying he would consider that matter, a clear decision was not forthcoming.
11. The complainant subsequently wrote a number of emails suggesting he was still expecting 50 files per month to be fully reviewed. TNA replied several times explaining that they were waiting for a response to their email of 18 August 2005 and could not progress his enquiry until he advised of his preferred course of

action. The complainant did not respond to TNA on this matter and on the 22 November 2005 a member of TNA had a telephone conversation with the complainant, during which he withdrew any agreement to process the files requested in a managed fashion, instead requesting that they were all dealt with immediately. He subsequently confirmed this wish in writing.

12. On 21st December 2005, TNA wrote to the complainant, stating that they had decided not continue to process his request. To facilitate this decision, TNA relied upon the following sections of the FOI Act:
 - Section 12 (exemption where cost of compliance exceeds appropriate limit)
 - Section 14(2) (repeated requests)
13. In the refusal notice of 21st December 2005, TNA also informed the complainant that they would not communicate further with him on this issue and advised him to appeal directly to the Information Commissioner if he was unhappy with their decision.

The Investigation

Scope of the investigation

14. On 6 September 2005 the complainant contacted the Commissioner to complain about the way in which his requests for information had been handled. At the time, the nature of the complainant's application to the Commissioner under section 50 of the Act was not clear.
15. TNA did not issue a formal decision to the complainant until 21 December 2005, in which sections 12 and 14(2) were applied. In addition, the complainant furnished the Commissioner with clarification of his September 2005 complaint and a further update on 8th January 2006. As such, the Commissioner decided to focus his investigation upon whether or not TNA's refusal notice of 21 December 2005 was in conformity with the Act, rather than on the complaint of 6 September 2005, which he considered to be ambiguous. This would enable the Commissioner to investigate the complainant's dealings with TNA in relation to his requests about Princess Margaret in its entirety. The Commissioner informed the complainant of this proposed course of action on 18 August 2006 and no objections were raised in response.
16. The complainant also raised other issues that are not addressed in this notice because they do not pertain to the public authority's obligations under Part I of the Act.

Chronology of the case

17. The complainant wrote to the Commissioner on 6 September 2005 to complain about the way his requests for information had been handled.
18. The Commissioner contacted the complainant in December 2005, asking for clarification of his complaint. This was supplied on 8 January 2006. On 12 January 2006 the complainant was informed that all the documents sent to the Commissioner had been reviewed and that the Commissioner would contact TNA in order to gain an understanding of their existing procedures for dealing with these types of requests.
19. The Commissioner contacted TNA on 7 July 2006, asking for copies of correspondence sent by it to the complainant, and the rationale behind TNA's decision. Material submitted to the ICO in response included a copy of the refusal notice of 21st December 2005, a log of all correspondence between TNA and the complainant and a schedule of the complainant's requests to the public authority to 11 July 2005.
20. The Commissioner contacted TNA on 17 August 2006 to ask if they would like to make any further representations, to which TNA stated that they had nothing further to add. The following day, the Commissioner contacted the complainant to inform him that his investigation would focus on the content of the refusal notice of 21st December 2005. No objection to this was raised.

Findings of fact

21. The Commissioner has established that TNA's attempts to reach to a mutually acceptable arrangement for processing the complainant's requests did not succeed.
22. The Commissioner has further established that all the complainant's FOI requests to TNA were substantially similar.

Analysis

23. Section 12 of the Act states that a public authority is not obliged to comply with a request for information if it estimates that the request would exceed an appropriate cost limit. A public authority may take into account the cost of locating, retrieving and extracting the requested information in its calculation. The cost limit is currently set at £600 and equates to three and a half days work or £25 per person per hour.
24. Regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 states that a public authority may aggregate requests for the purposes of estimating whether the appropriate limit would be exceeded in relation to any one of those requests. The Regulations state that requests can only be aggregated in the following circumstances:

- a) two or more requests for information must have been made to the same public authority;
 - b) they must be either from the same person, or from 'different persons who appear to the public authority to be acting in concert or in pursuance of a campaign' (section 12(4)(b) of the FOI Act);
 - c) the requests must relate to the same or similar information; and
 - d) they must have been received by the public authority within a space of 60 consecutive working days.
25. In representations to the Commissioner, TNA explained that for each request where a review of a record is requested the result can mean researching any number of files, and in the case of many of the records requested by the complainant there were very often up to 15 files per record. TNA stated that researching each individual record to establish whether the information in which the complainant was interested involved close scrutiny of each and every file.
 26. TNA stated that from their experience of processing much of the initial 50 requests, they estimated that the cost of complying with the request would be over £600. The Commissioner is satisfied with this estimation.
 27. The Commissioner is further satisfied TNA provided reasonable advice and assistance to the complainant to enable them to handle his initial requests within the fees limit of £600
 28. The complainant requested a large number of files "on the grounds previously stated". TNA considered that these subsequent requests all relate to information similar to that in his initial request for 50 files. Having reviewed the schedule of requests made by the complainant, the Commissioner agrees with this interpretation. As all these requests were submitted within a space of 60 consecutive working days, the Commissioner also believes that TNA was entitled to aggregate these requests as provided for in regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
 29. In view of the volume of information requested and because the complainant would not limit the scope of his request, the Commissioner agrees that it was appropriate to apply the cost limit and concludes that TNA were legitimately able to cease to process his requests.
 30. Section 14(2) of the Act states that where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.
 31. TNA also applied section 14(2) in relation to the complainant's subsequent requests. The Commissioner agrees that section 14(2) has been correctly applied in relation to the complainant's requests beyond the initial application for

50 files, which he considers to have been handled by TNA in accordance with the Act.

The Decision

32. The Commissioner's decision is that the public authority dealt with the request for information in accordance with Part I of the Act.

Steps Required

33. The Commissioner requires no steps to be taken.

Right of Appeal

34. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 17th day of October 2006

Signed

**Graham Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**