

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 November 2012

Public Authority: The Cabinet Office

Address: 70 Whitehall

London

SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information relating to a visit by Baroness Warsi to Saudi Arabia between 11 -20 November 2010.
2. The Commissioner's decision is that, on the balance of probabilities, the Cabinet Office does not hold the requested information at issue. He requires no steps to be taken.

Request and response

3. On 2 April 2012 the complainant wrote to the Cabinet Office requesting information in the following terms:

"Could I submit a Freedom of Information request regarding hospitality Baroness Warsi, the Cabinet Minister without Portfolio, has accepted from the Government of Saudi Arabia.

Between 11-20 November 2010 Baroness Warsi visited Saudi Arabia, for the performance of Hajj and for ministerial meetings within the margins of the trip; travel. Accommodation costs were met by Government of Saudi Arabia.

Could I request a full breakdown of the hospitality enjoyed by Baroness Warsi and members of her Family at the expense of the Saudi Government? The response should include details of her accommodation and other hospitality and an estimate of the total value of the hospitality received. Could I also ask how many other people were in her party and whether these were civil servants or members of her family or friends. [Points 1 and 2]

Has Baroness Warsi received any other hospitality from the Government of Saudi Arabia since she became a member of the Government? [Point 3]

Can I request full details of any meetings Baroness Warsi has held with members or representatives of the Government of Saudi Arabia since she took office?" [Point 4]

4. The Cabinet Office responded on 9 May 2012. It provided the complainant with a link to the Register of Lords interests which it considered relevant. It advised that it does not hold information in relation to points (1) and (2) of the request and provided a response in respect of part (3).
5. With respect to information within the scope of part (4) of his request, the Cabinet Office refused to provide that information, citing the international relations exemption (section 27 of FOIA) as its reason for doing so.
6. The complainant requested an internal review on 10 May 2012. He referred to the entry in the Lords register and raised the issue that he considered Baroness Warsi's department should also have published other information about her overseas visit.
7. The Cabinet Office sent the outcome of its internal review on 25 July 2012 upholding its original position. With respect to the points that he raised, the Cabinet Office explained to the complainant that the visit was for personal reasons and that the requirements of the Ministerial code relate to government business.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He confirmed that his complaint focuses on points (1) and (2) of the request. He told the Commissioner:

"I simply do not believe that the department holds no information on this visit and the hospitality Baroness Warsi and her entourage received"

9. With respect to the Cabinet Office's citing of an exemption in relation to part (4) of the request, the complainant said:

"The use of exception (4) is also confusing. It was either a Ministerial visit and falls within the exception or it was not. It cannot surely be both?"

10. Mindful of this emphasis, the Commissioner considers the scope of his investigation to be the Cabinet Office's handling of parts (1), (2) and (4) of the request for information with respect to Baroness Warsi's visit to Saudi Arabia.

Reasons for decision

Section 1 General right of access

11. Section 1(1) of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing if the authority holds the information and, if that is the case, to have that information communicated to them.

12. The request in this case relates to a Government Minister visiting Saudi Arabia. In bringing this matter to the Commissioner's attention, the complainant argued:

"At the very least there must have been discussions within the Cabinet Office..."

13. In his view, such discussions would have covered:

".. whether there should be declarations under the Ministerial Code, which takes precedents [sic] for Ministers, rather than in the Lords Register..."

14. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, he must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request (or was held at the time of the request).

15. Regarding the visit which is the subject of the request for information in this case, the Cabinet Office told the Commissioner:

"The position is straightforward: the visit was a personal one".

16. Accordingly, it argued that the Cabinet Office had no reason either to create or hold the information requested under parts (1) and (2) of the request. It also told the Commissioner that Lady Warsi's visit was not undertaken in her ministerial capacity. It confirmed what it had told the complainant – that the visit:

“was a personal visit for the religious pilgrimage of Hajj and details were declared in the Register of Peers Interests”.

17. With respect to part (4) of the request, the Commissioner asked the Cabinet Office to clarify its response to that part of the request. The Commissioner brought to the Cabinet Office's attention the concern expressed by the complainant that the use of the section 27 exemption was confusing.

18. Taking into account the emphasis of the complaint, the Cabinet Office confirmed that it holds no information about any meetings between Baroness Warsi and representatives of the Saudi Government during her visit to Saudi Arabia in November 2010.

19. From its correspondence during the course of his investigation, the Commissioner understands that the Cabinet Office's citing of section 27 - the international relations exemption - was in relation to a wider scope than that being considered here.

20. By way of further submission in this case, the Cabinet Office advised the Commissioner that, notwithstanding the personal nature of the visit, it had asked Lady Warsi's private office to conduct a search of its records for any relevant information. It told him that that search:

“would have located any relevant information held by the Cabinet Office”.

21. However, it advised that *“none was found”*.

22. In light of the above the Commissioner is satisfied that, on the balance of probabilities and on the basis of the evidence in front of him, the Cabinet Office does not hold any relevant information.

Right of appeal

23. 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

24. 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.
25. 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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF