

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 November 2022

**The Crown Estate:** The Crown Estate  
**Address:** 1 St James's Market  
London  
SW1Y 4AH

### **Decision (including any steps ordered)**

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1. The complainant requested copies of communications to and from the Duke and Duchess of Sussex and/or their representatives from 1 July 2021 to 2 February 2022, in relation to Frogmore cottage and/or any other property and/or land holding owned and/or managed by the Crown Estate.
2. The Commissioner's decision is that, on the balance of probabilities, the Crown Estate does not hold the requested information.
3. The Commissioner does not require the Crown Estate to take any steps as a result of this decision notice.

### **Request and response**

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4. On 2 February 2022 the complainant wrote to The Crown Estate and requested information in the following terms:  
  
"I would like to request the following information via the Freedom of Information Act and the Environmental Information Regulations, (EIRs) and I would be grateful if you could forward this request onto the most appropriate person within the organisation.  
  
Please note that I am only interested in information generated between 1 July 2021 and the present day.

Please note that the Duke and Duchess have now agreed not to use their HRH titles. They also do not carry out any official duties on behalf of the royal family and or the British government. It therefore follows that disclosure cannot have any toxic or detrimental effect on any public or diplomatic work.

Please note that the reference to the Duke and or Duchess of Sussex in the questions below should include either and or both those individuals. It should also include any legal representative writing and or communicating on behalf of the Duke and or Duchess. It should also include any press and publicity representative writing and or communicating on behalf of the Duke and or Duchess. It should also include any member of their private office writing and or communicating on behalf of the Duke and or Duchess. It should also include any representative and or employee of the couple's Archewell Foundation writing and or communicating on behalf of either the Duke and or Duchess of Sussex.

Please note that the reference to correspondence and communications in the questions below should include all traditional forms of correspondence such as letters and or faxes and or memos. It should also include all emails irrespective of whether they were sent and or received via official and or private accounts. It should also include all Gmail messages. It should also include all telephone text messages. It should also include all messages sent through encrypted messaging services including but not limited to WhatsApp. It should include all communications sent through diplomatic channels.

Please note that I would like to request actual copies of the correspondence and communication rather than just excerpts from that correspondence and communication. In the case of any letters can you provide a copy of the letter complete with any letterheads, other design features and signatures. If you feel information should be redacted, can you redact it where it appears in the letter. That way I will be able to judge the location and extent of the redaction.

Please redact the name and personal details of any junior Crown Estate employees and or a representatives from the documentation provided.

Please redact all information which in any way relates to security arrangements at any property owned and or managed by the Crown Estate.

Please note that the reference to the Crown Estate in the questions below should include each and or all of the following: the organisation's

chair including their private office; the organisation's Chief Executive and their private office, the organisation's legal department (or equivalent), the organisation's press and publicity department (or equivalent), any employee (s) with specific responsibility for any of the properties named or included below; any employee (s) responsible for liaison with the royal family; any employee (s) responsible for liaison with the Duke and or Duchess of Sussex.

I have confined my request to a particular time frame to try and ensure it remains within the time and cost constraints laid down by the relevant access regimes. But can you let me know if you hold relevant information outside this time frame. I will then submit another request for that.

1...During the aforementioned period have the Duke and or Duchess of Sussex written to and or communicated with the Crown Estate about Frogmore cottage and or any other property and or land holding owned and or managed by the Crown Estate. This correspondence and communication will include but will not be limited to refurbishment work carried out at Frogmore on behalf of the couple and or the royal family, and or the cost of that refurbishment work and or the couple's repayment of part and or all those refurbishment costs.

2...If the answer to question one is yes can you please provide copies of this correspondence and communication.

3...During the aforementioned period did the Crown Estate and or any legal representatives acting on behalf of the Crown Estate write to and or communicate with the Duke and or Duchess of Sussex about Frogmore cottage and or any other property and or land holding owned and or managed by the Crown Estate. This correspondence and communication will include but will not be limited to refurbishment work carried out at Frogmore on behalf of the couple and or the royal family; and or the cost of that refurbishment work and or the couple's repayment of part or all of those refurbishment costs.

4...If the answer to question three is yes can you please provide copies of this correspondence and communication.

5...If information relevant to this request has been destroyed can you state what has been destroyed. eg. Was it a letter and or an email and or a Gmail message? In the case of each piece of destroyed documentation can you identify the author (s) and the recipient (s). Can you state when the material was destroyed and why. If destroyed

information continues to be held in another form, can you, please provide that information.”

5. The Crown Estate responded on 2 March 2022. It stated:  
“I can confirm that we hold no information relevant to your request; we hold no records of communications with the Duke and Duchess of Sussex over the time period you refer to.”
6. Following an internal review, the Crown Estate wrote to the complainant on 8 April 2022 and upheld its original response.

### **Scope of the case**

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7. The complainant contacted the Commissioner 27 April 2022 to complain about the way their request for information had been handled. The complainant disputed the Crown Estate’s assertion that it did not hold any requested information relevant to the request.
8. The Commissioner considers the scope of the investigation is to determine if, on the balance of probabilities, the Crown Estate holds the requested information.

### **Reasons for decision**

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9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. The Commissioner has sought to determine whether, on the balance of probabilities, the Crown Estate holds the requested information.
11. From the information provided, the Commissioner can see that the Crown Estate has explained in both the original response to the complainant and in the internal review, that it does not hold such information.
12. On 11 November 2022, in response to the Commissioner’s enquiries, the Crown Estate set out the evidence for who owns and manages Frogmore Cottage in the following terms:

“Frogmore Cottage forms part of Frogmore House and Gardens, which were annexed to Windsor Castle for use by the Sovereign in perpetuity by an enactment in 1841 under Queen Victoria [redacted]. Frogmore Cottage is therefore a property which is at the disposal of His Majesty, a fact further reflected in section 5(5) of the [Crown Estate Act 1961](#) which makes provision for such properties. As such, while the land on which Frogmore Cottage stands forms part of The Crown Estate it is, as part of Frogmore House and Gardens and while at the disposal of His Majesty, a property which the Crown Estate Commissioners are not permitted to sell, lease or deal with in any way.”

13. The Commissioner considers that, although there are several websites which link Frogmore Cottage to the Crown Estate, it is not the case that the Crown Estate either owns or manages Frogmore Cottage. The Commissioner has seen a copy of the Act of 5 October 1841 which makes it clear that Frogmore cottage is part of Windsor Castle: “An Act for annexing the Mansion House, Gardens, and Grounds at Frogmore, Part of the Land Revenue of the Crown, to Windsor Castle”. The Act was debated in Parliament on 16 September 1841, a record of which is publicly available in Hansard.<sup>1</sup>
14. The Commissioner is satisfied that thorough and adequate searches of electronic and paper files were carried out by the Crown Estate to determine whether recorded information within scope of the request was held or not held. Furthermore, the Commission is satisfied that appropriate consultations took place with staff and the legal team at the Crown Estate and that should information within scope of the request have been held, those staff who were consulted would have been aware of such information.
15. On the balance of probabilities, the Commissioner is satisfied that the requested information is not held by the Crown Estate and, therefore, it cannot be provided.

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<sup>1</sup> <https://hansard.parliament.uk/Commons/1841-09-16/debates/0d9c2e20-beae-482a-a89cee18ccee426/FrogmoreHouseAndGardens>

16. The Crown Estate has complied with its obligations under section 1(1) of FOIA in this case.

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## Right of appeal

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatorychamber](http://www.justice.gov.uk/tribunals/general-regulatorychamber)

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.

**Signed** .....

**Michael Lea**

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