

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 February 2024

Public Authority: Department for Business and Trade
Address: Old Admiralty Building
London
SW1A 2DY

Decision (including any steps ordered)

1. The complainant has requested information regarding the Duke of York from the Department for Business and Trade ('DBT').
2. The Commissioner's decision is that on the balance of probabilities, DBT does not hold the requested information.
3. The Commissioner does not require further steps.

Request and response

4. On 15 June 2023, the complainant wrote to DBT and requested information in the following terms (request 1):

"I'm requesting under FOI: All correspondence (email, letter, telegram or fax) between the UK Trade and Investment authority and the Duke of York's private office, including any special or additional requests made by or on behalf of the Duke of York by his staff in 2001."
5. DBT responded on 13 July 2023. It stated that no information was held within the scope of the request.
6. On 15 June 2023, the complainant wrote to DBT and requested information in the following terms (request 2):

"I'm requesting under FOI a full list of those who accompanied the Duke of York on all international trips he made in 2001 whilst Special Representative for International Trade and Investment."

7. DBT responded on 13 July 2023. It stated that it did not hold the requested information.

8. On 15 June 2023, the complainant wrote to DBT and requested information in the following terms (request 3):

"I am making an FOI request to see the telegraphic communications between the FCO and the British Embassy in Bahrain relating to the lists of likes and dislikes of Prince Andrew in advance of his various visits to Bahrain between 2004 and 2005"

9. DBT responded on 13 July 2023. It stated that it did not hold the requested information.

10. On 16 June 2023, the complainant wrote to DBT and requested information in the following terms (request 4):

"Under the Freedom of Information Act 2000, I would like to request the following information: The Duke of York's full schedule / itinerary for all international visits made on behalf of the UK Trade and Investment authority and the Foreign Office whilst serving as Special Representative for International Trade and Investment in 2001."

11. DBT responded on 13 July 2023. It stated that it did not hold the requested information.

12. Following an internal review DBT wrote to the complainant on 26 October 2023. It stated that it was maintaining its position that no information was held.

Scope of the case

13. The complainant contacted the Commissioner on 27 October 2023 to complain about the way their requests for information had been handled.

14. The Commissioner considers that the scope of his investigation is to determine, on the balance of probabilities, whether DBT hold any information within the scope of any of the requests.

Reasons for decision

Section 1 – General right of access to information

15. Section 1(1) of the FOIA states that:

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

(a) to be informed 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.

16. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.

17. In other words, in order to determine such complaints, the Commissioner must decide whether it is more likely than not that the public authority has provided all the information it holds.

DBT's position

18. Prince Andrew was appointed the UK's Special Representative for International Trade and Investment from 2001 to 2011. He was appointed in this role by the government body: UK Trade & Investment (UKTI). Any information held in relation to Prince Andrew's role was therefore initially held by the former government body UKTI.

19. In July 2016, UKTI was subsumed by the Department for International Trade (DIT). In February 2023, DIT and the business functions of the Department for Business, Energy and Industrial Strategy (BEIS) were merged to form the Department for Business and Trade (DBT).

20. DBT advised the Commissioner that it did hold some information relating to Prince Andrew's role as the UK's special representative for Internal Trade and Investment. and it provided the Commissioner with a description of this information. The Commissioner cannot elaborate on that description, but he is satisfied that such information would not fall within the scope of the request.

21. DBT confirmed that no hard copy or electronic information would have been created after July 2011. DBT advised that it did not hold any hard copy papers relating to the information requested and any electronic

information within the scope of the request would be held in one location.

22. DBT also provided some details of its retention policy which indicated that, even if further information had previously existed, it may no longer be retained.
23. DBT advised that it had conducted electronic searches in this location for any information within the scope of the request. It informed the Commissioner stated that for each request, it used the following terms:

Request 1

24. For the first request, DBT advised that it used search terms such as "UKTI", "UKTI Authority", "UK Trade and Investment Authority", "Duke of York", "Prince Andrew", "Private office", "Special requests", "Additional requests" and "2001".
25. DBT advised the Commissioner that some relevant search terms were used in conjunction with others, this would allow it to only locate information (if held) within the scope of the request. In order to do this DBT used the "AND" connector. Some examples of these searches are "Private Office AND 2001", "UKTI AND Prince Andrew AND 2001", "UKTI Authority AND Duke of York AND 2001", "UK Trade and Investment Authority AND Private Office AND 2001", "Prince Andrew AND Special request AND 2001" and "Duke of York AND Additional request AND 2001".

Request 2

26. For the second request, DBT advised that it conducted searches using the following terms: "Duke of York", "Prince Andrew", "Special Representative for International Trade and Investment", "2001", "international", "travel" and "flight".
27. DBT advised that, like the first request, it used some search terms in conjunction with others. It used the "AND" connector to do this. Some examples of these include; "Duke of York AND 2001", "Special Representative for International Trade and Investment AND international AND 2001", " Prince Andrew AND travel AND 2001" and "Prince Andrew AND flight AND 2001".

Request 3

28. For the third request, DBT used the following search terms: "FCO", "Foreign Commonwealth Office", "Foreign Office", "British Embassy", "Embassy", "Bahrain", "Likes", "Dislikes", "Special requests", "Additional requests", "Extras", "2004" and "2005".

29. For the "AND" connector, DBT used a variety of combinations, some examples of these included: "FCO AND 2004", "FCO AND 2005", "Foreign Commonwealth Office AND Embassy AND 2004" and "Foreign Commonwealth Office AND Embassy AND 2005".

Request 4

30. DBT informed the Commissioner for the final request it used the following search terms: "Duke of York", "Prince Andrew", "Special Representative for International Trade and Investment", "FCO", "Foreign Commonwealth Office", "Foreign Office", "UKTI", "UKTI Authority", "UK Trade and Investment Authority", "Itinerary", "Schedule", "travel", "flight" and "2001".
31. DBT advised that for the "AND" connector in this request, it used variation of connections, some of which included: "Prince Andrew AND schedule AND 2001", "Duke of York AND Itinerary AND 2001", "Special Representative for International Trade and Investment AND travel AND 2001" and "Duke of York AND flight AND 2001".
32. DBT stated that after conducting searches, it reviewed any information located to determine whether it fell into the scope of the request. DBT concluded that despite the above searches, no information was held within the scope of the request.

The complainant's position

33. The complainant advised the Commissioner that they had previously submitted near identical requests with a longer time period. In response to these requests, the complainant was advised that some information was held, but in order to provide the requested information, the cost limit would be exceeded.
34. In an attempt to support DBT, the complainant argued that they had significantly reduced the time period of the four requests and had now been advised that the requested information was not held.
35. The complainant advised the Commissioner that they found it hard to believe that the requested information was not held. Especially when considering the dates for particular visits were widely reported in the press.

The Commissioner's decision

36. The Commissioner has considered both parties' position. How DBT may have responded to previous requests is not a matter within the scope of this notice. Whilst the Commissioner acknowledges that the complainant may have expected some information to be disclosed by reducing the

scope of the request, DBT's responses to the four requests above are not inconsistent with the previous responses the complainant has referred to.

37. Having reviewed the searches conducted by DBT and its submissions, the Commissioner is satisfied that, on the balance of probabilities, it does not hold information within the scope of the requests.

Other matters

38. The Commissioner would like to remind DBT that whilst internal reviews are not required under FOIA, they are still considered to be good practice.
39. In this case, DBT did not complete the internal review until after 40 working days had passed and therefore demonstrated poor practice.
40. The Commissioner records incidents such as these for monitoring and enforcement purposes.

Right of appeal

41. 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

42. 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.
43. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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