

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 August 2015

Organisation: The Church Commissioners
Address: Church House,
31 Great Smith St,
London
SW1P 3AZ

Decision (including any steps ordered)

1. The complainant has requested from the Church Commissioners the addresses and postcodes of all the land and property it owns.
2. The Church Commissioners has provided the complainant with some information regarding its property portfolio but not all of the information requested. It has explained to the Commissioner that the reason for this is that it is not a public authority for the purposes of the FOIA. It has therefore refused to respond to this request under the FOIA.
3. The Commissioner's decision is that the Church Commissioners is not a public authority for the purposes of the FOIA. He therefore upholds the Church Commissioners position and requires no steps to be taken in this case.

Request and response

4. On 1 May 2015 the complainant wrote to the Church Commissioners and requested information in the following terms:

"I am writing to request information under the Freedom of Information Act 2000.

My grounds for making an FOI request to the Church Commissioners are as follows:

1) The Church Commissioners are accountable to Parliament: <http://www.theyworkforyou.com/wrans/?id=2013-05-13c.154451.h&s=department%3AChurchCommissioners>

2) Various public officials including the Prime Minister serve on the Church Commissioners as part of their role: <https://www.churchofengland.org/about-us/structure/churchcommissioners/organisation-and-governance.aspx>

3) The stated objectives are the Church Commissioners. For example, ♦to be transparent and accountable in organisational activity and internal governance♦: https://www.churchofengland.org/media/1909409/w1025_cc_annual-report_v15.pdf

In order to assist you with this request, I am outlining my query as specifically as possible.

I should therefore like to request the following information:

1) *The address and postcodes of all land and property owned by the Church Commissioners, whether freehold, leasehold, unregistered or any other form of tenure.*

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the Freedom of Information Act 2000. I will also expect you to release all non exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would be interested in any information held by your organisation regarding my request. I understand that I do not have to specify particular files or documents and it is the department's responsibility to provide the information I require. If you need further clarification, my preferred method of contact is via email.

I should like this information to be released to me in Excel spreadsheet form.

I would be grateful if you could confirm in writing that you have received this request. I look forward to receiving your response within 20 working days, as outlined by the statute."

5. The Church Commissioners discussed various matters over the telephone with the complainant on 29 July 2015 and directed him to its

Annual Report for 2014¹ which gives certain information regarding its property portfolio.

Scope of the case

6. The complainant contacted the Commissioner on 1 July 2015 to complain about the way his request for information had been handled. In particular, he complained that the Church Commissioners had failed to respond to his request dated 1 May 2015. He also expressed his view that the Church Commissioners were covered by the FOIA for the following reasons;
 - a) They are a body set by an act of Parliament
 - b) They are accountable to Parliament
 - c) Various public officials including the Prime Minister serve on the body as part of their role
 - d) One of the five objectives of the Church Commissioners is: "to be transparent and accountable in organisational activity and internal governance".
7. The Commissioner considers the scope of this case to be concerned with the question of whether the Church Commissioners is a public authority for the purposes of the FOIA.
8. In the recent case of *Fish Legal v Information Commissioner & Others* (GIA/0979/2011 & GIA/0980/2011) ("Fish Legal"), the Upper Tribunal Administrative Appeals Chamber (the "UT") ruled that the Commissioner has jurisdiction to both investigate and decide whether a body is a public authority.
9. The Commissioner therefore has jurisdiction to decide this question. The First Tier Tribunal (the "FTT") may also hear appeals against the Commissioner's decisions and the UT may hear appeals against the decisions of the FTT.

1

<https://www.churchofengland.org/media/2229788/the%20church%20commissioners%20annual%20report%202014.pdf>

Chronology

10. On 30 July 2015 the Commissioner contacted the Church Commissioners for its comments. Although it claimed not to be aware of the complainant's request dated 1 May 2015 it did say that it had spoken to him over the telephone on 29 July and directed him to some information in its Annual Report for 2014 regarding its property portfolio.
11. In response to the Commissioner's enquiry regarding its status under the FOIA, the Church Commissioners stated that it was not a 'public authority' within the definition of section 3 of the FOIA. It pointed out that it is not listed in Schedule 1 of the FOIA, it is not designated in an order under section 5 of the FOIA nor is it a publicly owned company as defined in section 6 of the FOIA.

Reasons for decision

12. The FOIA gives members of the public the right to access recorded information held by public authorities and places a duty on public authorities to respond to requests for such information.
13. If a public authority receives a request for information they are usually legally obliged to provide it within 20 working days, unless any of the exemptions contained within the FOIA apply. If a public authority believes an exemption does apply to the information that has been requested then the public authority must explain why the exemption applies.
14. The definition of 'public authority' is given in section 3(1) of the FOIA. In particular it states that under the FOIA a "public authority" means-
 - (a) subject to section 4(4), any body which, any other person who, or the holder of any office which-
 - (i) is listed in Schedule 1, or
 - (ii) is designated by order under section 5, or
 - (b) a publicly-owned company as defined by section 6.
15. Section 5 allows the Secretary of State to designate a public authority by order.
16. Section 6 states that a company is a "publicly-owned company" for the purposes of section 3(1)(b) if it is wholly owned by the Crown or is wholly owned by any public body listed in Schedule 1 (other than a

government department or any authority which is listed only in relation to particular information).

17. The Commissioner has considered the relevant sections of the FOIA and has concluded that the Church Commissioners is not a 'public authority' as defined by section 3 as it is not listed in Schedule 1, designated by order under section 5, or a publicly-owned company as defined by section 6.

Right of appeal

18. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. 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.
20. 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

Rachael Cragg
Group Manager
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Wilmslow
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