

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 November 2023

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

### Decision (including any steps ordered)

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1. The Commissioner's decision is that none of the withheld information in parent file 'PREM 15/1179 — Prime Minister's Office: Audiences with The Queen' is environmental information and that the information's exempt from disclosure under section 37(1)(a) of FOIA. This exemption concerns communications with the Sovereign.
2. It's not necessary for the National Archives to take any corrective steps.

### Request and response

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3. The complainant requested information from the parent file PREM 15/1179 on 18 May 2023. They noted that pages redacted from the file had given a future release date of 2021.
4. The final position of the National Archives (TNA) was that the redacted information was exempt from disclosure under section 37(1)(a) of FOIA.

### Reasons for decision

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5. This reasoning first considers whether any of the requested information is environmental information which should be handled under the

Environmental Information Regulations (EIR). It then focusses on TNA's reliance on section 37(1)(a) of FOIA.

**Is the information environmental information?**

6. Regulation 2 of the EIR defines environmental information as being on the state of the elements of the environment and on factors or measures affecting or likely to affect those elements.
7. TNA has provided the Commissioner with the information it's withholding. It has noted that the file refers to arguably environmental matters, mostly in the form of particular agenda items but no further information is provided in respect of those agenda items. In TNA's view such information therefore doesn't constitute "information on", which regulation 2 specifies.
8. The Commissioner agrees. Having reviewed it, he's satisfied that none of the information can be considered to be environmental information as defined under regulation 2 of the EIR. TNA was therefore correct to handle the entire request under FOIA.

**Section 37 – communications with the Sovereign**

9. Under section 37(1)(a) of FOIA, information is exempt from disclosure if it relates to communications with the Sovereign.
10. In its internal review, TNA advised the complainant that section 37(1)(a) may not be applied "if the later of the following time periods has passed":
  - Five years from the date of the 'relevant death'; or
  - 20 years for the creation of the record containing the information.
11. TNA said that as Her Majesty Queen Elizabeth II died in 2022, where information relates to communications with Her Majesty The Queen, section 37(1)(a) may be applied until 2027. (The above provision is given under section 63 of FOIA.)
12. As noted, the Commissioner has reviewed the information in scope, which TNA has provided to him. He's satisfied that the information relates to communications with the Sovereign. The Commissioner's decision is therefore that the information engages section 37(1)(a) of FOIA. As it's an absolute exemption, there's nothing further to consider in relation to section 37.

## **Right of appeal**

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13. 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-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. 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.
15. 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**

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**