

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2024

Public Authority: Cabinet Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested information about risk assessments for preventing transmission of Covid-19 at 10 Downing Street. The Cabinet Office disclosed one risk assessment document and stated no further information in scope of the request was held.
2. The Commissioner's decision is that the Cabinet Office has complied with its obligations under section 1 of FOIA and provided all the recorded information it holds in scope of the request.

Request and response

3. On 30 May 2022, the complainant wrote to the Cabinet Office and requested information in the following terms:

"Please send me copies of all Covid risk assessments to keep staff safe and prevent the transmission of Covid that were carried out for 10 Downing Street at any point during 2020. Please include any actions that were agreed, including any limitations on room numbers, social distancing requirements etc. To be clear, I am interested in the areas in which work was carried out, rather than the residential areas."
4. The Cabinet Office responded on 27 June 2022 confirming information was held but refusing the request under sections 24(1) and 38(1) of FOIA.

5. The complainant requested an internal review of this decision on 11 July 2022 arguing it is not unusual for offices to share their infection control procedures. The Cabinet Office conducted an internal review and responded on 14 September 2022 upholding its position.

Scope of the case

6. The complainant contacted the Commissioner on 1 September 2022 to complain about the way their request for information had been handled.
7. During the course of the Commissioner's investigation the Cabinet Office reconsidered its position and disclosed a copy of a risk assessment dated 5 November 2020. The Cabinet Office made some minor redactions under section 40(2) of FOIA for names and email addresses; these redactions were not challenged by the complainant.
8. The complainant raised concerns with the Commissioner that further information must be held as the risk assessment stated it was 'reviewed and updated' on 5 November 2020, suggesting early iterations existed. The complainant also argued other information must be held, for example on restrictions on numbers in rooms.
9. The Commissioner considers that the scope of his investigation is to determine if any further information in scope of the request is held by the Cabinet Office.

Reasons for decision

Section 1 – information held

10. Section 1 of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to them.
11. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
12. Following the disclosure of the risk assessment and the concerns raised by the complainant the Commissioner wrote to the Cabinet Office to ask

if the document provided was the first and only risk assessment document or if earlier versions existed. The Commissioner also asked the Cabinet Office how it had reached its position ie what searches it had carried out to determine if information was held.

13. The Commissioner also asked if any other recorded information was held about maximum room capacities as the risk assessment referred one-third of normal capacity, possibly indicating some discussions may have taken place to reach this position.
14. The Cabinet Office confirmed that initially they had searched for relevant information with the Prime Minister's Office as they were responsible for producing a Covid risk assessment for the Prime Minister's Office. This had only identified the November 2020 risk assessment.
15. Further searches by the Prime Minister's Office during the course of the Commissioner's investigation again confirmed no earlier risk assessments have been found. The Cabinet Office explained there was no requirement for any earlier versions of documents to have been retained, should they have existed.
16. For completeness the Cabinet Office also searched the records, information and data it had retained for the purposes of the Covid Inquiry and did not identify an earlier Covid risk assessment.
17. The Commissioner has considered the complainant's concerns and understands why they may consider that the Cabinet Office should hold further information relevant to their request as the risk assessment does state it was 'reviewed and updated' in November 2020. However this may refer to an earlier draft version of the document that the Cabinet Office indicated would have had no business need to be retained. The Commissioner is satisfied the Cabinet Office has carried out reasonable and proportionate searches. Given the request asked for information relating to measures to prevent the transmission of Covid at 10 Downing Street it is reasonable searches were focused on the Prime Minister's Office.
18. The Commissioner also notes that if any earlier risk assessments were held by the Cabinet Office it is likely they would have been retained by the Cabinet Office for the Covid Inquiry and, as this is not the case, the Commissioner concludes that, on the balance of probabilities, the Cabinet Office does not hold any other risk assessments falling within the scope of the request.
19. In terms of any other information in scope of the request such as any recorded information on agreed actions around limitations on room numbers and maintaining social distancing, the Cabinet Office maintains

the only recorded information on this subject is contained in the risk assessment that has already been disclosed. For the reasons set out above the Commissioner again forms the view that, on the balance of probabilities the Cabinet Office does not hold any further information in scope of the request and has complied with its obligations under section 1 of FOIA.

Right of appeal

20. 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

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Jill Hulley
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