

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

### **Decision notice**

**Date:** 11 January 2016

**Public Authority:** Cabinet Office

**Address:** 70 Whitehall  
London  
SW1A 2AS

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

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1. The complainant has requested honours correspondence relating to Sir Peter Morrison and Sir Peter Hayman from the Cabinet Office. The Cabinet Office disclosed some information and asserted that it held no further information within the scope of the complainant's request. It upheld this position after internal review.
2. During the course of the Commissioner's investigation, the Cabinet Office found two newspaper cuttings which, in its view, fall within the scope of one of the complainant's requests although it did not provide them to the complainant. It argued that they would be reasonably accessible to him. The Commissioner's decision is that the Cabinet Office must either provide these cuttings to the complainant or issue a refusal notice explaining why it is not obliged to do so. In failing to do so, it has contravened the requirements of section 1(1) of the Act.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.
4. However, the Commissioner is satisfied that the Cabinet Office does not hold any further information within the scope of the complainant's request.

## Request and response

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5. On 12 March 2015 the complainant requested information of the following description:

"I would like to request the following information under the Freedom of Information Act. I understand my request will take 20 working days but I would be grateful if you could acknowledge receipt via [email address]

My request concerns honours awarded to and or presented to the following individuals.

Sir Peter Hugh Morrison, the former MP for Chester (2 June 1944 to 13 July 1995).

Sir Peter Telford Hayman (14 June 1914 to 9 April 1992).

I am interested in material which relates to the period 1965 to the present day.

Some of this material will inevitably have been generated after their deaths.

Please note that I am interested in receiving information about honours which were actually awarded and or honours which were either refused or not awarded.

Please note that the reference to the Cabinet Office below should be taken to mean the Cabinet Office and or Downing Street and or other appropriate honours committees.

Please note that the Information Commission [sic] has advised that the Freedom of Information Act does guarantee access to copies of actual documentation and not just the information contained within.

1... In the case of each of the two individuals, can you please supply copies of all correspondence and communications between them and the Cabinet Office which in any way relates to the issue of honours and or titles. The correspondence could relate to an honour (s) or title (s) which was actually awarded or it could relate to honours and titles which were either refused or not awarded. Please do include all correspondence and communications including emails. Please do include both sides of the correspondence and communications.

2.. In the case of each of the two individuals, can you please supply copies of all correspondence and communications between the Cabinet Office/Downing Street and any of their representatives and or

employees which relates to the issue of honours and titles. The correspondence could relate to an honour (s) or title (s) which was actually awarded to the individuals or it could relate to honours and titles which were either refused or not awarded. Please do include all correspondence and communications including emails.

3... In the case of each of the two individuals can you please supply copies of all correspondence and communications sent by and or on behalf of a Prime Minister or Cabinet Minister which in any way relates to the subject of honours and or titles. This documentation will include but will not be limited to correspondence and communications with the honours committee as well as correspondence with civil servants."

4... In the case of each of the two individuals can you please provide a list of individuals and or government departments and public bodies which recommended them for an honour. I am interested in receiving information even if the honour was refused or not awarded. In the case of each department, each public body and each recommendation, can you please supply copies of all correspondence and communications with the Cabinet Office. I am interested in receiving both sides of the correspondence. In the case of recommendations by an individual(s) please feel free to redact the name of any member of the public. But please do not redact the name of any politician and or peer and or civil servant.

5... In the case of each of the two individuals, did the Cabinet Office carry out a research of any kind and or seek the advice of any third party about their suitability for an honour. If so can you provide copies of this correspondence and associated documentation held by the Cabinet Office".

6. On 13 April 2015, the Cabinet Office wrote to the complainant and said it needed further time to consider the public interest test in respect of section 37(1)(b) (honours exemption). It undertook to respond by 12 May 2015 and, in fact, responded on 8 May 2015.
7. In that response, the Cabinet Office said that it did not hold any information within the scope of requests 1-3 and request 5. It did hold information within the scope of request 4 which, in its view, was exempt information under section 37(1)(b). However, given the passage of time and the fact that the individuals concerned were now deceased, it had concluded that the public interest favoured disclosure. It had therefore provided a copy of two documents to the complainant.
8. The complainant requested an internal review on 11 May 2015 and expressed dissatisfaction at the Cabinet Office's position that no more information was held.

9. The Cabinet Office sent him the outcome of its internal review on 27 May 2015 and confirmed its assertion that it held no further information within the scope of his request.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 6 June 2015 to complain about the way his request for information had been handled. He drew attention to allegations against both individuals that they had sexually abused children and argued that the public interest favoured disclosure of honours information about them. He also expressed doubt that all the information within the scope of his request had been disclosed to him.
11. The Commissioner has considered whether the Cabinet Office holds any more information within the scope of the complainant's request beyond what it has already disclosed.

## **Reasons for decision**

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12. Section 1(1) of FOIA creates a two-part obligation upon public authorities. First, it must confirm or deny whether it holds information requested under FOIA and, second, it must disclose it. Both obligations are subject to exemptions, most of which are, in turn, subject to a balance of public interest test.
13. In this case, the Cabinet Office confirmed it held information within the scope of the complainant's request and, although it considered that this information was exempt information by virtue of section 37 (honours information), the balance of public interest favoured disclosure. It disclosed that information to the complainant. However, the complainant has disputed the extent of the disclosure.
14. When considering the question of whether information described in a request is held, the Commissioner considers the matter to the civil standard, that is, on the balance of probabilities.
15. The Commissioner asked the Cabinet Office a number of detailed questions based on his experience of numerous cases and on a number of judgements issued by the First-tier Tribunal (Information Rights). His series of questions sought to determine, for example, what the Cabinet Office's policy was in relation to document retention for information of the type requested; what search terms it had used; where it had searched and why it had searched there; when the information, if

previously held, had been destroyed and whether this accorded with standard policy; and what statutory requirements may be in place regarding the retention of such information.

16. He also asked the Cabinet Office to confirm whether it had construed the phrase "the Cabinet Office" widely enough to include Prime Ministerial correspondence and correspondence to and from 10 Downing Street.
17. The Cabinet Office responded to all the Commissioner's questions. It explained that it had tried and tested methods of searching its databases which it used to check whether a person nominated for an honour had been previously nominated. It explained that its initial searches had yielded the information which it had disclosed to the complainant. Following the Commissioner's request, it had conducted searches again and found two further documents within the scope of the requests which it knew had already been released to the complainant by the Foreign and Commonwealth Office. The complainant, a journalist, has written articles in a national newspaper about information he has obtained under the Freedom of Information Act.
18. It also found press cuttings in relation to Peter Hayman from 1981 and 1984 which was information in the public domain. By inference, it was satisfied that this information was readily accessible to the complainant. It has not explained this to the complainant and, in the Commissioner's view, it should do so either by providing him with copies or by explaining that it was relying on section 21 (information accessible to the complainant by other means) as its basis for not doing so. The complainant does not know which press cuttings it is referring to even if he has ready access to them as the Cabinet Office has implied.
19. Turning to its record retention policies, it explained that it had a record of when its file regarding Peter Morrison was destroyed (30 June 2011), that its record showed that this was a "routine" destruction and that no information was deemed to be "of interest" and, thus, to be retained. It held no record of a specific date when its file regarding Peter Hayman was destroyed but asserted that it was satisfied that this was also in 2011.
20. It further explained that:

"Standard letters indicating acceptance of an honour are kept for approximately 6 months, while the honours round is completed. Paper Nomination/Case files were normally destroyed after 5 years. Records of the existence of a nomination are kept for 30 plus years. Correspondence files relating to individuals are normally kept for 30 years."

It added that:

"Political Honours Scrutiny Committee (PHSC) files are reviewed periodically by the Knowledge and Information Management Team on a case by case basis".

21. It did not explain how the information which it disclosed to the complainant came to be retained when the chief files were "routinely destroyed" in 2011.
22. Further, in 2015, a file was released to the National Archives which shows that the Prime Minister at the time, Margaret Thatcher, was alerted to serious allegations made against Peter Hayman at some point between October 1980 and March 1981.<sup>1</sup> Peter Hayman was named in parliament in 1981 as being subject to allegations of child abuse by Geoffrey Dickens MP. Recent newspaper reports assert that Margaret Thatcher was also warned in 1987 about similar allegations against Peter Morrison.<sup>2</sup>
23. Given the seriousness of the allegations made against Peter Hayman and Peter Morrison it is, with hindsight, difficult to understand why files about honours awarded to Peter Hayman and Peter Morrison would be considered suitable for routine destruction in 2011 even if they post-dated the honours awarded to both men by over 30 years.

## **Section 1 Conclusion**

24. The Commissioner notes that allegations about groups of senior figures committing crimes against children did not emerge to a wider audience until 2012.<sup>3</sup> This does not mean that nobody was aware of these allegations (see Note 1). Instead, it means that a concerted approach to look into the extent of these alleged criminal activities by senior figures was not in place at the time the Cabinet Office says that the records were destroyed.
25. It therefore appears wholly plausible that the records were destroyed in 2011.

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<sup>1</sup> <http://discovery.nationalarchives.gov.uk/details/r/C11918876>

<sup>2</sup> <http://www.independent.co.uk/news/uk/crime/thatcher-was-warned-of-tory-child-sex-party-claims-9631657.html>

<sup>3</sup> <http://www.independent.co.uk/news/uk/crime/was-there-a-paedophile-ring-in-no-10-mp-tom-watson-demands-probe-8224702.html>

26. As noted above, the Commissioner considers cases where the extent of disclosure is disputed to the civil standard, that is, on the balance of probabilities. The Commissioner notes that since the initial request the Cabinet Office has found further information within the scope of the request and, aside from the newspaper cuttings, has disclosed these to the complainant. This appears to be inconsistent with its routine destruction of files over 30 years old. However, this does not, in the Commissioner's view and, on the balance of probabilities, indicate that the Cabinet Office holds yet more information within the scope of the request.
27. That said, the Commissioner concludes that the Cabinet Office's failure to either provide the newspaper cuttings it found to the complainant or to explain to him why it is not obliged to do so, contravenes the requirements of section 1(1) of the FOIA.
28. It should now provide him with those newspaper cuttings (the existence of which appears to fall within the scope of Request 5) or issue him with a refusal notice explaining why it is not obliged to do so.
29. If, for example, it seeks to argue that the information is reasonably accessible to the complainant and it is therefore not obliged to disclose it by virtue of section 21 of the FOIA, it should provide the complainant with the date of the articles in question and the name of the newspaper in which they were published so that he can locate them. If he is not able to access the articles as the Cabinet Office suggests, it should provide him with photocopies of the cuttings upon request.

## Right of appeal

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30. 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 123 4504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

31. 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.
32. 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 .....**

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
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**SK9 5AF**