

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

### **Decision notice**

**Date:** 31 March 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 records and communications held in paper and electronic form of the meeting(s) held between Alastair Campbell and senior civil servants over revising the structure of the Iraq WMD dossier. The Cabinet Office refused to provide the information it held within the scope of the request, citing section 21 (accessible to the requester) as its basis for doing so. It upheld this at internal review and asserted that it held no further information within the scope of the request.
2. The Commissioner's decision is that the Cabinet Office is entitled to rely on section 21 in respect of the information it holds within the scope of the request. The Commissioner has concluded that on the balance of probabilities it holds no further information within the scope of the request.
3. No steps are required.

### **Request and response**

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4. On 8 May 2015, the complainant requested information of the following description:

"Under the terms of the FoI Act 2000, I request all records and communications held in paper and electronic form of the meeting(s)

held between Alastair Campbell and senior civil servants over revising the structure of the Iraq WMD<sup>1</sup> dossier as referred to in Document 26 of the WMD: Programmes of Concern papers- a letter sent by Julian Miller dated 6 September 2002. These papers were earlier released under freedom of information legislation".

For your convenience, here is a link to the disclosure;

<https://www.gov.uk/government/publicatio...><sup>2</sup>

5. This request was sent via the What Do They Know website and, in the title of the request, the complainant described the request as being for:  
  
"All records held of meeting(s) between alastair campbell and senior civil servants over iraq wmd dossier".
6. For the avoidance of doubt, in the Commissioner's view, in the circumstances of this case the title of the request forms part of the request.
7. On 3 June 2015, the Cabinet Office wrote to extend the time for response because it needed further time to consider the balance of public interest in relation to section 27. On 17 June 2015, the Cabinet Office provided its response in a letter dated 15 May 2015. It said that it was not obliged to respond under section 21 of the Act, that is, the information is readily accessible to the complainant. It provided a link which it deemed relevant.
8. The complainant requested an internal review on 18 June 2015 and explained that the link in question did not work and that, in any event, he was seeking access to "minutes or records of the meeting between Alastair Campbell and civil servants and officials referred to in Document 26 of the 'WMD: Programmes of Concern' batch of documents previously disclosed not 'relevant parts' of a memorandum written after the meeting"..
9. The Cabinet Office sent him the outcome of its internal review on 3 August 2015 (in a letter dated 30 July 2015). It upheld its original

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<sup>1</sup> Weapons of Mass Destruction

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/61134/foi-wmd-iraq.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61134/foi-wmd-iraq.pdf)

position and reproduced the text that was accessible via the link it had provided.

## Scope of the case

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10. The complainant contacted the Commissioner on 17 August 2015 to complain about the way his request for information had been handled.
11. The Commissioner has considered whether the Cabinet Office is entitled to rely on section 21 as the basis for refusing to comply with the request. The Commissioner has also considered whether the Cabinet Office holds any other information within the scope of the complainant's request.

## Reasons for decision

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### Background

12. Prior to the invasion of Iraq in March 2003, the government presented information in support of its position that Iraq posed an immediate threat to UK national security. Controversy arose at the time regarding the veracity of some of the government's assertions regarding Iraqi weapons capability with particular reference to the potential use of weapons of mass destruction. There were a number of reports by journalists challenging the government's position. Dr David Kelly, a government scientist, was a source used by Andrew Gilligan (a BBC journalist) in the preparation of his reports on this subject. Dr Kelly subsequently committed suicide. An inquiry into the circumstances surrounding Dr Kelly's death was convened – the Hutton Inquiry. Although the Hutton Inquiry website itself has now been archived, it is still available via the National Archives website.<sup>3</sup> The evidence submitted by the Cabinet Office to the Inquiry is available via that website.<sup>4</sup>
  13. Alistair Campbell was the government's Director of Communications and Strategy at the time.
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<sup>3</sup> <http://www.webarchive.org.uk/wayback/archive/20041027120000/http://www.the-hutton-inquiry.org.uk/content/rulings/statement280104.htm> (Chapter 6 of the Inquiry's report addresses the preparation of the dossier of 24 September 2002)

<sup>4</sup> <http://www.webarchive.org.uk/wayback/archive/20041027120000/http://www.the-hutton-inquiry.org.uk/content/evidence-lists/evidence-cab.htm>

14. Section 21 provides that information is exempt from disclosure if it is reasonably accessible to the applicant.
15. In this case the Cabinet Office relied on this exemption for information that it thought was accessible via a link it sent to the complainant. Unfortunately, it did not send a workable link and sought to rectify this at internal review by reproducing the text. During the Commissioner's investigation, the Cabinet Office provided the Commissioner with the link via which the information in question can be accessed.<sup>5</sup>
16. The Commissioner notes that the reproduced text was not all the text in the document (see note 5). In its internal review letter to the complainant, the Cabinet Office reproduced text as follows: "After the meeting of 9 September ... to write the final version". The Commissioner would observe that the remainder of the text falls outside the scope of the request. It may have been more helpful if the Cabinet Office had reproduced the full text of the document in its correspondence with the complainant for context.
17. However, the information in question is self-evidently accessible to anyone and therefore section 21 applies to it.
18. The key question that the complainant has drawn attention to is whether the Cabinet Office holds any other information within the scope of his request. He said:

"A memorandum following a meeting was sent by Campbell to Sir John Scarlett on 9 September. This memorandum, submitted to the Hutton Inquiry, indicated another meeting due to take place for 'presentational' purposes to enhance the message conveyed ultimately by the September 2002 WMD dossier.

The Cabinet Office has dismissed my request on the grounds that it holds no other information on these meetings beside the memorandum, which has already been in the public domain."
19. When referring to "another meeting", the Commissioner assumes the complainant is referring to this section of the information accessible via the link at Note 5.

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<sup>5</sup> [http://webarchive.nationalarchives.gov.uk/20090128221546/http://www.the-hutton-inquiry.org.uk/content/cab/cab\\_6\\_0002to0004.pdf](http://webarchive.nationalarchives.gov.uk/20090128221546/http://www.the-hutton-inquiry.org.uk/content/cab/cab_6_0002to0004.pdf)

"In the meantime, I will chair a team that will go through the document from a presentational point of view, and make recommendations to you. This team, I suggest, will include John Williams (FCO) Paul Hamill (CIC) and Phil Bassett and David Bradshaw from here. Writing by committee does not work but we will make recommendations and suggestions, and you can decide what you want to incorporate. Once they are incorporated, we need to take a judgement as to whether a single person should be appointed to write the final version.

So our current thinking and planning points to sometime in the middle of next week as the earliest possible time to do this. Once we have an advanced draft, we can address the questions of exact timing, launch details, Prime Ministerial and other ministerial involvement. The Prime Minister has expressed an interest in seeing an advanced draft."

20. The Commissioner also notes an item in the aforementioned Document 26 which also refers to additional meeting where it states at point 3 (see Note 2):

"CIC offered to pull co-ordinate the various inputs and produce a revised draft of the dossier. Inputs need to be with Paul Hamill by close of play on Monday 9 September so that a revised draft can be circulated for discussion at a meeting to be arranged for the afternoon on Tuesday 10 September".

21. To determine whether the Cabinet Office held any other information within the scope of the request, the Commissioner asked a series of questions to establish, among other points, whether the Cabinet Office held information about meetings between Alastair Campbell and civil servants and officials referred to in Document 26 of the 'WMD: Programmes of Concern'. He also asked whether the Cabinet Office held information about meetings between the same individuals over revising the structure of the Iraq WMD dossier which were *not* referred to in the aforementioned Document 26. He also asked the Cabinet Office to explain what searches it had conducted for such information and for more information about its document retention policies.

22. The Cabinet Office, in response, said the following:

- It holds no additional information beyond the memo that was published by the Hutton Inquiry.
- It searched named relevant secretariats.
- It used the following search terms for electronic searches: "WMS"; "WMD Programmes of Concern"; "Dossier"; "Campbell" and "Alistair Campbell".

- Local records were not searched because given the passage of time between the events in question and the date of the request, local records of the requested information would no longer be held.
  - "Information held within the scope of the request is held as a paper record and no relevant recorded information has been destroyed from these paper records". The Commissioner assumes that the Cabinet Office is referring to the memo it submitted to the Hutton Inquiry and that it holds it as a paper record.
23. The Commissioner also asked the Cabinet Office what information it was considering when it applied section 27 and needed further time to consider the balance of public interest (letter to complainant of 3 June 2015). It said:
- "The letter which was sent explaining that the department needed more time to consider the public interest in relation to section 27 was sent in error. Although the material within the scope of the request engages section 27, it was already in the public domain at the time of the request. This was an error on the part of the department, which we should have explained more clearly in our internal review response to the requester."<sup>6</sup>
24. The Commissioner considers disputes about whether information is held to the civil standard, that is, on the balance of probabilities. While there clearly remains a considerable amount of speculation around this topic, that does not, of itself, mean that the Cabinet Office holds further information within the scope of this request.
25. The complainant made the following observation:
- "I have doubts and think that the Cabinet Office may have more which it is not declaring. Even if this is not the case, I seek a Decision Notice giving the Information Commissioner's views on the apparent fact that two key meetings in the preparation and drafting of the September 2002 WMD dossier, involving Alastair Campbell (who had been given executive powers over civil servants but subsequently claimed, at the Chilcot Inquiry<sup>7</sup>, not to have used them in this case), were not minuted

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<sup>6</sup> The Commissioner has not considered whether the information in question is exempt under section 27 (prejudice to international relations).

<sup>7</sup> [www.iraqinquiry.org.uk/](http://www.iraqinquiry.org.uk/)

or recorded at all. Is this not a case of key special advisors and civil servants moving away from recording official advice and decision making without a freedom of information request in sight. I suggest that the reason for not recording the proceedings of these meetings- if they were not recorded- was to remove any evidence of highly controversial and possibly unethical behaviours of the officials concerned. By unethical, I mean actions in contravention of government codes regulating the behaviour of special advisors and civil servants".

26. The complainant has suggested an explanation as to why no further information that would fall within the scope of his request is held. The Commissioner would note that this is speculation on the complainant's part.
27. The Commissioner is satisfied, based on the Cabinet Office's explanation of the searches they undertook, that no further information is held. He has also taken the Hutton Inquiry into account. Evidence about the preparation of the dossier referred to in the request was sought and considered by that Inquiry. The information within the scope of the request which is exempt under section 21 does suggest additional meetings. However, specific records of these meetings do not appear to have been retained, if they were ever made.
28. The Commissioner has reached his conclusion on this point on the balance of probabilities.

## Right of appeal

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29. 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)

30. 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.
31. 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**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**