

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 May 2022

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant has requested confirmation as to who currently occupies the role of Minister for the Civil Service and copies of any public announcement made in relation to any change of this appointment.
2. The Commissioner's decision is that the Cabinet Office is entitled to rely on section 21 of FOIA as the information within the scope of the request is already reasonably accessible to him on the Government's website.
3. The Commissioner does not require the Cabinet Office to take any remedial steps in relation to this case.

Request and response

4. On 5 October 2021, the complainant wrote to the Cabinet Office and requested information in the following terms:

'The PM is the Minister for the Civil Service, but this role is always delegated to another minister. I know that Michael Gove has moved on from the Cabinet Office, but the role of Minister for the Civil Service is not always held by the Cabinet Office minister. For example, Gordon Brown appointed Tom Watson to be responsible for the Civil Service, whilst he was Minister for Digital Engagement and Civil Service Issues. Could you confirm who the role of Minister for the Civil Service is now

and provide copies of any public announcement made in relation to this change of appointment. I have, of course seen that Stephen Barclay is now the Cabinet Office Minister, but I have not seen an update that explicitly mentions him being the Minister for the Civil Service as well.'

5. The Cabinet Office responded on 28 October 2021. It stated that:

'We are writing to advise you that following a search of our paper and electronic records, we have established that the information you requested is held by the Cabinet Office. This information is exempt from disclosure under section 21(1) of the Freedom of Information Act, being information that is reasonably accessible to the applicant by other means. In this instance however, we are able to share the below information regarding your request.

The Prime Minister is the Minister for the Civil Service and has held this role since his appointment as Prime Minister on 24 July 2019. This is a matter of public record and is available via the relevant Ministers page on GOV.UK here: <https://www.gov.uk/government/people/boris-johnson>

The Ministerial responsibilities of the current Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office are also set out on the Ministers pages of GOV.UK, and are available here:

<https://www.gov.uk/government/people/stephen-barclay>. Those responsibilities include leading cross-government and public sector transformation and efficiency.'

6. The complainant wrote to the Cabinet Office on 10 November 2021 and complained about the response provided. He stated that the response did not address his question as to who 'is the current delegated Minister for the Civil Service?' The complainant stated that, 'this was previously Michael Gove, but I can find nothing in the public domain to say who it is now'.
7. Following an internal review, the Cabinet Office responded to the complainant on 2 December 2021.
8. The Cabinet Office explained that it had considered the points made by the complainant but stated that:

'The exemptions at Section 21 of the Freedom of Information Act were properly applied, given the information requested is already available in the public domain, on the GOV.UK website'.

It also explained that it had:

'considered the points you make about delegated authority. In addition to my original response, I would point you to the List of Ministerial Responsibilities which sets out individual ministers' responsibilities:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031025/2021-11_List_of_Ministerial_Responsibilities.pdf.

This states that the Prime Minister is the Minister for the Civil Service'

Scope of the case

9. The complainant contacted the Commissioner on 2 December 2021 to complain about the way his request for information had been handled. Specifically, the complainant advised that the Cabinet Office response 'did not attempt to answer my question about who the role of Minister for the Civil Service has been delegated to now, assuming that Michael Gove no longer holds this position'.
10. The Commissioner contacted the complainant on 21 February 2022 and explained that he was satisfied the Cabinet Office had applied section 21(1) correctly and proposed to close the matter informally by way of a proportionate course of action.
11. The complainant responded on 21 February 2022 and advised that he was not satisfied with the response received and did not consider that the Cabinet Office had fully answered his question about who the role of Minister for the Civil Service has been delegated to now.
12. The complainant sent a subsequent email to the Commissioner on 21 February 2022 in which he advised he had been unable to find the information requested in the public domain. The complainant advised that the real point to his complaint was 'that I am asking a government department for information about a decision made by government. There must therefore be a government document or public statement that puts the matter beyond all doubt and so far I've seen nothing.' It was the complainant's contention that the role of Minister for the Civil Service had previously been delegated to Michael Gove.
13. The Commissioner responded to the complainant via email on 25 February 2022 and advised:

'the Commissioner has advised you that it was legitimate and reasonable for the Cabinet Office to refuse your information request under the above exemption because the information you requested is already in the public domain. The Commissioner notes that you have not

provided any evidence to suggest that the exemption has been misapplied by the Cabinet Office in this case.'

In the same email the Commissioner noted that the complainant was not satisfied with the informal closure of the complaint and confirmed that the Commissioner would therefore issue a Decision Notice in due course.

14. The Commissioner considers the scope of this case to be whether the Cabinet Office was entitled to refuse the complainant's request under section 21 of the FOIA (i.e. was the information requested already reasonably available to the complainant). The Commissioner has also undertaken to address the complainant's concerns and views in doing so.

Reasons for decision

15. The exemption in section 21¹ provides that information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.
16. Information can be said to be reasonably accessible if it has been placed in the public domain and can be obtained by the applicant without the need for a specific request under section 1.
17. In this case the Cabinet Office explained that the information requested was exempt under section 21(1). In its response to the complainant the Cabinet Office did include internet links as to where the information could be found. That information confirmed that the Prime Minister, the Rt Hon Boris Johnson MP, currently occupies the role of Minister for the Civil Service (having done so since his appointment as Prime Minister). The Commissioner has seen no evidence to show that the Rt Hon Michael Gove MP previously occupied this role.²
18. The complainant's apparent confusion appears to be around the delegation of the role of Minister. The role in question is not delegated and the Commissioner does not have evidence – nor any reason to believe – that it was delegated. As such, all of the information falling within the scope of the request is contained in the information available.
19. The Commissioner does consider that it would have been helpful – though by no means a requirement of FOIA – for the Cabinet Office to have more fully addressed the complainant's apparent confusion around the delegation of the Minister's role in their explanations to him, such as

¹ <https://ico.org.uk/media/for-organisations/documents/1203/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf>

² <https://www.gov.uk/government/people/michael-gove>

by providing some further explanation when it sent him the link listing Ministerial responsibilities. For example, the Cabinet Office could have made clear the distinction between what constitutes a "responsibility" of a particular individual Minister and what scenario – if any - would constitute a formal role of the Prime Minister having been "delegated" to a Minister.

20. The Commissioner has nevertheless therefore concluded that the Cabinet Office correctly applied section 21 to the complainant's request and complied with its FOIA obligations in respect of it.

Right of appeal

21. 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

22. 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.
23. 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
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