

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 March 2014

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

Decision (including any steps ordered)

1. The complainant requested information relating to the awarding of any honours to the photographer Ernest Brooks who died in 1936.
2. The Commissioner's decision is that the Cabinet Office has provided all of the information it holds.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 22 June 2013, the complainant wrote to the Cabinet Office and requested information in the following terms:

"1...Copies of all documentation held by the Cabinet Office which in any way relates to the awarding of honours to Mr Brooks. Please do include all information irrespective of whether the actual honour in question was awarded.

2...Can you please provide copies of all documentation held by the Cabinet Office which in any way relates to the decision to strip the late Ernest Brooks of his honours. The documentation will include but will not be limited minutes of the relevant meetings of the Forfeiture committee – or its then equivalent. It will also include but not be limited to communications between relevant individuals involved in the process. It

will also include correspondence and communications between relevant officials and the Prime Minister of the day. It will also include but not be limited to correspondence and communications between the Prime Minister and Buckingham Palace. Please note that some of this information will pre-date the decision to strip Mr Brooks of his honour while some of it would have been generated afterwards.

3...Any correspondence and communications between the Cabinet Office and anyone identifying themselves as a relative and or descendant of Mr Brooks. Some of this information may have been generated during Mr Brooks' life-time. Some of it will have been generated afterwards".

5. The Cabinet Office responded on 16 July 2013. It stated that it did not hold any information pursuant to the request at points 1 and 3 and provided information relevant to point 2.
6. The complainant asserts that, having requested an internal review on 23 July 2013, he did not receive any reply whilst the Cabinet Office asserts that it provided its response to that request on 31 August 2013. A further copy of the internal review was forwarded to the complainant on 5 December 2013. The internal review provided a further small amount of information relevant to the request.

Scope of the case

7. The complainant contacted the Commissioner on 22 October 2013 to complain about the way his request for information had been handled. Specifically he raised the issue of the delay in response to his request for an internal review and the failure to provide more information in response to his request.
8. The Commissioner considers the scope of the investigation to be whether the Cabinet Office holds any further information relevant to the request.

Reasons for decision

9. Section 1(1)(a) and 1(1)(b) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.

10. In considering cases such as this, the Commissioner will consider whether on the balance of probabilities the requested information is held. In order to reach a decision on this, the Commissioner will ask the public authority in question detailed questions as to the nature of the requested information and the searches it has carried out. He will then consider the context of the case, the nature of the requested information, the authority's responses, the arguments provided by the complainant and any evidence to suggest that the information in question is held.
11. In responding to the Commissioner's questions regarding the provision of the requested information, the Cabinet Office detailed the searches which were undertaken to identify relevant information.
12. It explained that The Ceremonial Branch, which was the forerunner to the Honours and Appointments Secretariat in the Cabinet Office, was established in 1937. Information created before that date may have been transferred to the National Archives or may have been destroyed in line with the provisions of the Public Records Act 1958.
13. The Cabinet Office confirmed that Mr Brooks was awarded a British Empire Medal in 1918 and an OBE in 1920. Both of these honours were annulled in 1925, 12 years prior to the founding of the Ceremonial Branch.
14. Upon receiving the request for an internal review in this case, the Cabinet Office reviewed its first search of the schedule of forfeiture cases prior to 1937 and also searched a second version of the schedule of forfeitures, explaining that the second version had not originally been searched as officials believed that both versions contained identical information. The additional details were, the Cabinet Office asserts, provided to the complainant.
15. The Cabinet Office has confirmed that all records relating to the time period covered by the request and likely to contain relevant material have now been thoroughly searched.
16. The nature of the time period covered by the request meant that no electronic searches were appropriate in this case although the Cabinet Office's initial response to the complainant suggested that electronic searches had been undertaken but had not uncovered any information. The Cabinet Office has confirmed that the reference to electronic searches having been conducted in this case was in fact erroneous.
17. With regard to the possibility that documents may have been destroyed or deleted, the Cabinet Office has confirmed that this is possible. Prior to 1958 there were no set requirements as to the selection of records to be

permanently retained therefore relevant documents may have been destroyed and the Cabinet Office confirmed that it is highly unlikely that any further information created in the 1920s would have been retained.

18. The Commissioner accepts that there would be no current legitimate business purpose for the retention of the information and that the information which was supplied to the complainant was held for reference purposes to enable precedent to be checked when appropriate. Furthermore the Commissioner accepts that the importance of information governance was not sufficiently developed at the time in question and therefore cannot be relied on in this case to challenge assertions or confirm the existence of or destruction of recorded information.
19. The complainant has not offered any detailed submission or evidence to support the assertion that the Cabinet Office holds more information relevant to his request.
20. The Commissioner considers that in this case, the arguments put forward by the Cabinet Office are reasonable and persuasive and that on the balance of probabilities, no further information is held relevant to the scope of the request.

Other matters

21. The complainant complained about the lack of response to his request for an internal review despite several attempts to get an update.
 22. When specifically asked about this during the course of the Commissioner's investigation, the Cabinet Office stated that its records showed that a response was issued on 31 August 2013 and was re-issued on 5 December 2013. The complainant states that he did not receive the response.
 23. In circumstances such as this, the Commissioner is unable to reach a firm view as to whether this may have been owing to an administrative error on the part of the public authority or simply a delivery error.
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Right of appeal

24. 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 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

25. 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.
26. 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

Jon Manners
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