

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 October 2022

Public Authority: Foreign, Commonwealth & Development Office
King Charles Street
London
SW1A 2AH

Decision

1. The complainant has requested a copy of a document that was destroyed by the Foreign, Commonwealth & Development Office (FCDO) prior to transferring the parent file to The National Archives (TNA). The Commissioner's decision is that, on the balance of probabilities, the FCDO does not hold the requested information.

Request and response

2. The complainant made the following information request to the FCDO on 22 October 2021:

"I am writing to enquire about an FCO file that was recently released to the National Archives on 17th March 2020. The file number is: FCO 46/8085. I enclose the link to the file description on the National Archives website:

<https://discovery.nationalarchives.gov.uk/details/r/C17145408>

Upon viewing the file, yesterday, I came upon a notice stating that one document had been removed from the file and destroyed by FCO staff on 29th August 2019 - please see the photo titled '2.jpg,' for further details. The notice advised contacting you directly to ascertain whether

this document may have been retained by the Foreign Office, and I would like to enquire whether I could submit a FOI for the missing document, if so? I have also attached photos of the rest of the file, for your convenience.”

3. The final position of the FCDO is that it does not hold the missing document as it is required to remove NATO documents prior to transferring records to TNA..

Reasons for decision

4. This reasoning covers whether the FCDO is correct when it says that it does not hold the information the complainant requested.
5. The complainant in this case has argued that, if the FCDO had followed its own rules, it should only have destroyed documents it transferred to TNA when copies are also held by NATO. The FCDO should therefore have checked that the document was in fact held by NATO before destroying it. NATO has informed the complainant that it does not hold a copy of this document.
6. In this case there is no requirement for the FCDO to hold the information once it has been transferred to TNA. Whether the FCDO should have checked that the document was held by NATO prior to its destruction is not something the Commissioner is required to consider. The records held by TNA indicate that the document has been destroyed and no evidence has been put forward to suggest that this did not happen.
7. The Commissioner is therefore satisfied that, on the balance of probabilities, the FCDO does not hold the requested information.

Right of appeal

8. 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: 0870 739 5836

Email: grc@justice.gov.uk

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

9. 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.
10. 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

Roger Cawthorne
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Wycliffe House
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Wilmslow
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