



**First-tier Tribunal  
(General Regulatory Chamber)  
Information Rights**

**Appeal Reference: EA/2020/0016**

**Decided without a hearing on: 23 October 2020**

**Before**

**JUDGE SOPHIE BUCKLEY  
ALISON LOWTON  
PAUL TAYLOR**

**Between**

**EDWARD WILLIAMS**

Appellant

**and**

**THE INFORMATION COMMISSIONER**

First Respondent

**THE HOME OFFICE**

Second Respondent

**DECISION**

1. For the reasons set out below the appeal is allowed.

**MODE OF HEARING**

1. The parties and the Tribunal agreed that this matter was suitable for determination on the papers in accordance with rule 32 Chamber's Procedure Rules.

## REASONS

### **Introduction**

1. This is an appeal against the Commissioner's decision notice FS50870302 of 8 January 2020 which held that the Home Office was entitled to neither confirm nor deny holding the requested information by virtue of section 24(2) (national security) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner did not require the Home Office to take any steps.

### **Procedural Background**

3. The Commissioner no longer maintains that the Home Office was entitled to rely on section 24(2).
4. The Home Office confirmed by letter dated 29 April 2020 that it withdrew its reliance on s 24(2) and had decided to release the requested information to Mr Williams. It set out in its response to the appeal that it did not oppose the appeal.
5. The requested information has now been provided to Mr. Williams.

### **Request and Decision Notice**

#### *The Request*

6. Mr Williams made the request which is the subject of this appeal on 14 May 2019:

...Provide a list in date order of all payments or other rewards made to Henry Jackson Society in the last 10 years with a description of what the payment was for if possible i.e. research into terrorism.

P.S. Henry Jackson Society is a charity registered in England and Wales under registered charity number 1140489..

#### *The Response*

7. The Council replied to the request on 30 July 2019 stating that it could neither confirm nor deny that it held the requested information in reliance on s 31(3) and 24(2) and that the public interest favoured maintaining the exemptions. It upheld its position on internal review on 30 August 2019.

## *The Decision Notice*

8. In a decision notice dated 8 January 2020 the Commissioner concluded that the requested information, if held, would provide information about partners the Home Office works with and the type of work undertaken. In the light of information provided by the Home Office she accepted that revealing whether or not the information was held would be likely to undermine the safeguarding of national security. The exemption was therefore engaged. She considered that the public interest balance favoured maintaining the exemption. The Home Office therefore applied s 24(2) appropriately.

### **Grounds of Appeal**

9. As the appeal is not resisted it is not necessary to summarise the grounds of appeal in detail. In essence Mr. Williams argued that the exemption was wrongly applied.

### **The Commissioner's response**

10. The Commissioner originally provided an open and closed response. Given that the information has now been disclosed there is no longer any need for any of the response to be closed.
11. The Commissioner, as she is entitled to in the light of new information, states that she no longer maintains that the Home Office was entitled to rely on s 24(2) to refuse to confirm or deny whether it held information within the scope of the request. The reason for the Commissioner's change of position was that she had become aware that there was already public confirmation of the fact that research conducted by the Student Rights arm of the Henry Jackson Society was passed to the Home Office, albeit on an unpaid and unsolicited basis, and that it was either confirmed or reasonable to assume that this research informed the Home Office's work.

### **The Home Office's response**

12. The Home Office's response indicates that they do not oppose the appellant's case. The covering letter states that:

Our client has decided to withdraw its reliance on section 24(2) of the Freedom of Information Act 2000 and to release the information requested to the Appellant.

### **Legal framework**

13. Section 24 provides that the duty to confirm or deny does not arise if, or to the extent that, exemption from s 1(1)(a) (the right to be informed in writing by the public

authority whether it holds the information requested) is required for the purpose of safeguarding national security.

### The Task of the Tribunal

14. The tribunal's remit is governed by s.58 FOIA. This requires the tribunal to consider whether the decision made by the Commissioner is in accordance with the law or, where the Commissioner's decision involved exercising discretion, whether she should have exercised it differently. The tribunal may receive evidence that was not before the Commissioner and may make different findings of fact from the Commissioner.

### **Issues**

15. The issues we have to determine is whether exemption from s 1(1)(a) (the right to be informed in writing by the public authority whether it holds the information requested) is required for the purpose of safeguarding national security.

### **Discussion and conclusions**

16. We agree with the Commissioner's conclusion in her response that exemption from s 1(1)(a) is not required for the purpose of safeguarding national security because it was reasonable to assume from information already in the public domain that the work of the named organisation informed the work of the home office. For the reasons set out in the Commissioner's response, the exemption is not engaged.

### *Conclusion*

17. For the reasons set out above the appeal is allowed. Our decision is unanimous.

Signed Sophie Buckley

Judge of the First-tier Tribunal

Date: 9 November 2020

Date Issued: 11 November 2020