

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2012

Public Authority: Foreign and Commonwealth Office
Address: King Charles Street
London
SW1A 2AH

Decision

1. The complainant requested all material from the file FCO 39/803 (Future political systems of the Libyan Arab Republic, including trials before the People's Court, covering dates 1971) that it had not previously released.
2. The Commissioner's decision is that the Foreign and Commonwealth Office lawfully withheld the requested information, as it is information supplied to it by, or relating to, bodies dealing with security matters (section 23).

Request and response

3. The complainant (on 2 June 2010) requested the Foreign and Commonwealth Office (FCO) to release to her all material from the file FCO 39/803 (Future political systems of the Libyan Arab Republic, including trials before the People's Court, covering dates 1971) that it had not previously released.
4. The FCO informed the complainant, in a letter dated 2 July 2010, that the requested information was exempt from disclosure by virtue of section 23 of FOIA.
5. Following a request from the complainant on 11 August 2010, the FCO after a request from the complainant reviewed its decision. The outcome of the review was to uphold the original decision and it informed the complainant of this in a letter dated 8 October 2010.

Scope of the case

6. The complainant contacted the Commissioner on 7 December 2010 to complain about the way the FCO had dealt with her request for information.

Reasons for decision

7. Section 23 (1) states that information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3)¹.
8. This exemption is not subject to the public interest, so if the information in question conforms to the class specified in this exemption, it is exempt from disclosure, irrespective of any public interest in its disclosure.
9. As part of his investigation, the Commissioner obtained from the FCO a letter dated 11 March 2011 from a senior official confirming that the withheld information did relate to a listed body dealing with security matters. This was further confirmed when on 20 October 2011 the Deputy Commissioner attended a meeting with the FCO at which the nature and content of the withheld information was reviewed. Accordingly, the Commissioner's decision is that the FCO is entitled to rely upon section 23 (1) to withhold the requested information from the complainant.
10. The Commissioner cannot give a fuller explanation of the reasons for his decision in this notice as to do so would itself disclose exempt information.

¹ <http://www.legislation.gov.uk/ukpga/2000/36/section/23>

Right of appeal

11. 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,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. 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.

13. 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

Graham Smith
Deputy Commissioner
Information Commissioner's Office
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Water Lane
Wilmslow
Cheshire
SK9 5AF