

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 December 2017

**Public Authority:** The Cabinet Office

**Address:** 70 Whitehall

London

SW1A 2AS

### Decision (including any steps ordered)

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1. The complainant submitted a request to the Cabinet Office for access to papers contained in files CAB 185/11, 14 and 16. The Cabinet Office withheld this information on the basis of section 23(1) (security bodies) of FOIA. The Commissioner is satisfied that the information is exempt from disclosure on the basis of this exemption.

### Request and response

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2. The complainant submitted a request to the Cabinet Office on 9 January 2017 seeking the following information:

*'Access please to CAB 185/11-16 (annexes to joint intelligence committee minutes) for papers on applications by f w winterbotham to publish a book on Bletchley Park achievements in WW2. Required for my research. Papers may have had special Sigint codewords – whole subject is now completely unclassified'*

3. The Cabinet Office responded on 6 February 2017 and explained that in relation to files CAB 185/12, 13 and 15 this information was not held. The Cabinet Office explained that it did hold the information sought by

the complainant in files CAB 185/11, 14 and 16 but this information was exempt from disclosure on the basis of section 23(1) of FOIA.<sup>1</sup>

4. The complainant contacted the Cabinet Office on 8 February 2017 and asked for an internal review to be conducted in relation to the application of section 23(1) of FOIA to the information contained in files CAB 185/11, 14 and 16.<sup>2</sup>
5. The Cabinet Office informed him of the outcome of the internal review on 24 March 2017. The review upheld the application of section 23(1).

## Scope of the case

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6. The complainant contacted the Commissioner on 21 April 2017 in order to complain about the Cabinet Office's decision to withhold the requested information contained in files CAB 185/11, 14 and 16.

## Reasons for decision

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### Section 23(1) – information supplied by or relating to bodies dealing with security matters

7. Section 23(1) of FOIA provides an exemption which 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).'*

8. To successfully engage the exemption at section 23(1), a public authority needs only to demonstrate that the relevant information was directly or indirectly supplied to it by, or relates to, any of the bodies listed at section 23(3).<sup>3</sup> This means that if the requested information falls within this class it is absolutely exempt from disclosure under FOIA. This exemption is not subject to a balance of public interests test.

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<sup>1</sup> These files are described on The National Archives' website as confidential annexes from Joint Intelligence Committee (JIC) meetings from the 1970s.

<sup>2</sup> The complainant also noted that his request in relation to files CAB 185/12, 13 and 15 was in error and that he amended the request accordingly shortly after it was submitted but he could no longer find a trace of this further correspondence.

<sup>3</sup> A list of the bodies included in section 23(3) of FOIA is available here: <http://www.legislation.gov.uk/ukpga/2000/36/section/23>

9. A representative of the Commissioner's office examined the withheld information at the premises of the Cabinet Office in November 2017. Based on this inspection of the information the Commissioner is satisfied that the withheld information clearly falls within the scope of the exemption provided by section 23(1) of FOIA. Clearly, the Commissioner cannot refer to the content of the withheld information in this decision notice in order to elaborate on this finding. However, she would emphasise that as the withheld information consists of papers from JIC meetings, and representatives of the security agencies attended the JIC, it is unsurprising that she has concluded that the Cabinet Office applied section 23(1) correctly.
10. In his submissions to the Commissioner the complainant argued that the subject of Bletchley's wartime code breaking is no longer classified. Furthermore, the complainant argued that disclosure of this information was in the public interest.
11. However, as explained above section 23(1) is a class based exemption. If information falls within the scope of the exemption it is exempt from disclosure; there is no need for a public authority to demonstrate that prejudice or harm would occur if the information was disclosed in order for the section 23(1) to be engaged. Furthermore, as also noted above, the exemption is an absolute one and therefore not subject to the public interest test. Therefore, in the Commissioner's view the complainant's submissions do not affect her conclusion that the withheld information is exempt from disclosure on the basis of section 23(1) of FOIA.

## Right of appeal

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12. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. 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.
14. 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 .....**

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**