

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 November 2018

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

Decision (including any steps ordered)

1. The complainant has requested information on a review into the funding of Islamist extremism in the UK.
2. The Commissioner's decision is that the Cabinet Office has appropriately relied on section 23 FOIA (Information supplied by, or relating to, bodies dealing with security matters) to withhold the requested information. She however finds the public authority in breach section 10(1) FOIA for failing to respond to the request within the statutory time limit.
3. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

Request and response

4. On 4 July 2017 the complainant wrote to the Cabinet Office and requested information in the following terms:

"According to various news reports as well as Written Answers by government ministers in Parliament, a Review into the funding of Islamist extremism in the UK (commissioned by the former Prime Minister) has been delivered to the Prime Minister and the Home

Secretary. I would like to ask for a copy of the report (including Annexes etc. if applicable)".

5. The Cabinet Office responded on 27 September 2017. It stated that it held information in the scope of the request which it was withholding in reliance of sections 24 and 40(2) FOIA. It went on to explain that the exemptions at sections 23, 27, 31, 25, 36, 38 and 41 also applied to parts of the requested information.
6. Following an internal review the Cabinet Office wrote to the complainant on 27 October 2017 upholding the application of sections 23 and 40(2).
7. During the Commissioner's investigation the Cabinet Office changed its decision to withhold the entirety of the report in the scope of the request, in reliance of section 23.

Scope of the case

8. The complainant contacted the Commissioner on 27 October 2017 to complain about the way his request for information had been handled. He explained his view that the report or substantive parts of the report should have been disclosed.
9. The Commissioner considers the scope of her investigation to be the application of the section 23 exemption to the requested report.

Reasons for decision

10. Section 23 of FOIA states that:

"(1) 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)."

11. The full list of bodies specified in section 23(3) can be viewed online.¹

Furthermore, the Commissioner considers that the phrase 'relates to' should be interpreted broadly. Such an interpretation has been accepted

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

by the First-Tier Tribunal (Information Rights) in a number of different decisions.²

12. When investigating complaints about the application of section 23(1), the Commissioner needs to be satisfied that the information was in fact supplied by a security body or relates to such a body. In this case the Commissioner inspected the withheld information to satisfy herself of this assertion by the Cabinet Office.
13. The Commissioner is satisfied that the information was supplied by or relates to one of the bodies listed in section 23(3). She therefore considers that the section 23(1) exemption is engaged. In addition, in light of the recent Upper Tribunal judgment in *Corderoy and Ahmed v (1) ICO (2) A-G (3) CO* [2017] UKUT 495 (AAC), the Commissioner also considered the issue of disaggregation and does not consider the information to which section 23 has been applied can be disaggregated on the principles in *Corderoy*.
14. In the circumstances of this case the Commissioner accepts the explanation provided by the relevant security bodies in support of the Cabinet Office relying on section 23(1) to withhold the requested information. The Commissioner has therefore concluded that the public authority was entitled to rely on section 23(1).
15. Section 23(1) is an absolute exemption which means that it is not subject to the public interest test set out in section 2(2)(b) FOIA. Once it is determined that the exemption is engaged, the information cannot be released under the FOIA.

Procedural matters

16. A public authority is required by virtue of section 10(1) FOIA to respond to an applicant's request for information promptly and in any event no later than 20 working days following receipt of the request.
17. The request was submitted on 4 July 2017. The Cabinet Office provided its response on 27 September 2017 exceeding the statutory time limit. The Commissioner therefore finds the public authority in breach of its obligation under section 10(1).

² See *Dowling v Information Commissioner and The Police Service for Northern Ireland*, EA/2011/0118, paras 17 to 22.

Right of appeal

18. 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

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

19. 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.
20. 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

Gerrard Tracey
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