

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 November 2022

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

#### **Decision (including any steps ordered)**

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1. The complainant has requested a copy of a report produced by the Joint Intelligence Committee. The above public authority ("the public authority") relied on section 23 of FOIA (security bodies) to withhold the requested information.
2. The Commissioner's decision is that the public authority has correctly applied section 23 of FOIA.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 27 October 2021, the complainant wrote to the public authority and requested a copy of a document titled "The High Command of the Combined Forces of the Warsaw Pact in Peace and War" produced in 1984 and still held by the Joint Intelligence Committee.
5. The public authority responded on 24 November 2021. It relied on section 23 of FOIA to withhold the information – a position it upheld at internal review.

#### **Reasons for decision**

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6. The following analysis explains why the Commissioner considers that the public authority was entitled to rely on section 23 of FOIA.
7. Public authorities are allowed to rely on section 23 of FOIA to withhold information that was either supplied by or relates to a specific list of

security bodies. Section 23(3) sets out the list of security bodies covered, including the Security Service (MI5), the Secret Intelligence Service (MI6), Government Communications Headquarters (GCHQ), the UK Special Forces (SAS, SBS, SRR etc) and a number of other bodies.

8. The Joint Intelligence Committee is not itself listed. However, it has oversight of many of the bodies on that list, including MI5, MI6 and GCHQ. According to GCHQ's website<sup>1</sup>:

"The **JIC's permanent members** are senior officials from Cabinet Office, including the JIC Chair, the Chief of the Assessments Staff and the National Security Advisor, as well as officials from the Foreign and Commonwealth Office, the Ministry of Defence, the Home Office, the Department for International Development, HM Treasury and **the heads of GCHQ, SIS and MI5**. Other departments attend as necessary". [emphasis added]

9. The Commissioner has not seen a copy of the withheld information, nor does he consider it necessary on this occasion. The request seeks a report, produced by the JIC, on the military command structures of hostile foreign powers and, based on the membership of the Committee, the Commissioner considers it self-evident that any such report must relate to the work of one or more of the security bodies listed in section 23. This is sufficient to engage the exemption.
10. The complainant has argued that the document was only marked as "confidential" (which is a fairly low security classification) and that it relates to a structure (the Warsaw Pact) no longer in existence. She may well be correct on both points, but this is immaterial. Section 23 does not depend on the current sensitivity of the information, but on its relationship to the work of security bodies.
11. Section 23 does not include a public interest test.

## Other matters

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12. The Commissioner notes that it took four months (and his own intervention) for the public authority to complete its internal review. He considers this to be extremely poor practice, especially given the narrow scope of the request and the nature of the exemption being relied upon. Internal reviews should not normally take in excess of 40 working days.

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<sup>1</sup> <https://www.gchq.gov.uk/information/joint-intelligence-committee>

## Right of appeal

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13. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. 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.
15. 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**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**