

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 February 2023

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

Decision (including any steps ordered)

1. The complainant has requested correspondence relating to the takeover of Newcastle United Football Club. The above public authority ("the public authority") relied on section 27 of FOIA (international relations) to withhold the requested information.
2. The Commissioner's decision is that the public authority has correctly applied section 27 of FOIA and that the public interest favours maintaining the exemption.
3. The Commissioner does not require further steps.

Request and response

4. On 13 April 2022, the complainant wrote to the public authority and requested information in the following terms:

"I would like to request copies of any letter, email or digital correspondence (including WhatsApp, Signal, text or any other similar communication method):

"[1] between Lord Lister and special envoy to KSA Ken Costa relating to Public Investment Fund takeover of Newcastle between March 2020 and November 2021

- “[2] between Dan Rosenfeld and Ken Costa relating to Public Investment Fund takeover of Newcastle between March 2020 and November 2021
- “[3] between the Prime Minister and Ken Costa relating to Public Investment Fund takeover of Newcastle between March 2020 and November 2021
- “[4] between Dan Rosenfeld and the Prime Minister relating to Public Investment Fund takeover of Newcastle between March 2020 and November 2021
- “[5] between Dan Rosenfeld and the Prime Minister relating to the Premier League and potential European Super League between January 2021 and April 2021.”
5. The public authority responded on 16 May 2022. It stated that it only held information within the scope of element [3] and relied on section 27 of FOIA to withhold this information. It upheld this stance following an internal review.

Reasons for decision

6. As the complainant has not disputed the public authority's claim that it only holds information within the scope of element [3], the following reasoning only considers whether the public authority is entitled to rely on section 27 of FOIA to withhold that information.
7. Section 27 of FOIA allows a public authority to withhold information whose disclosure would be likely to harm the UK's relations with other countries or the promotion of its interests abroad.
8. Two documents are being withheld in this case. The first is a letter sent by Mr Ken Costa, the then-Prime Minister's Special Representative to Saudi Arabia and Vision 2030, a strategic programme undertaken by the Saudi Arabian government. This letter records a series of meetings that Mr Costa had had with various members of the government of the Kingdom of Saudi Arabia, summarising the main points discussed and agreed as well as Mr Costa's assessment of the meeting. The meetings in question cover a wide range of topics as well as the proposed takeover of Newcastle United.
9. The second document is a letter from the-then Prime Minister replying to Mr Costa.

10. The public authority argued that disclosure of this information would harm the UK's ability to maintain relations with the Kingdom of Saudi Arabia. It argued that representatives of the Saudi government engaged with the UK government on the basis that such meetings would be regarded as confidential. Representatives of the Saudi government would be much less likely to engage with the UK (or, if they did, would be much less frank) if they were concerned that the content of those discussions would subsequently enter the public domain.
11. In addition, the public authority noted that diplomats must feel free to provide candid accounts of the discussions that they have had with their counterparts in other countries and that disclosure would have a chilling effect on the ability of diplomats to provide robust assessments, to the UK government, of the views of other nations. In particular it noted that the letter had only been circulated to a very small number of very senior individuals within the UK Government.
12. In decision notice IC-102103-T6B8, the Commissioner agreed that disclosure of particular information relating to Newcastle United would be likely to harm relations with the Kingdom of Saudi Arabia.¹ In this case, the Commissioner considers that the same arguments applied there would apply even more strongly here, as the information being withheld covers a much broader range of topics than Newcastle United.
13. The Commissioner therefore accepts that there is a real possibility of harm, to the UK's relationship with the Kingdom of Saudi Arabia in particular and other nations more generally, if the public authority were to disclose information that a foreign government regards as being sensitive or confidential. Section 27 of FOIA is thus engaged.

Public interest test

14. As in decision notice IC-102103-T6B8, the Commissioner recognises that Newcastle United is a club with a large fanbase and that there is some public interest in understanding the role the UK Government played in the eventual sale.
15. However, the Commissioner is not convinced that disclosure of the withheld information would greatly advance that public interest. References to the takeover bid form only a small part of each of the withheld documents and they refer to the takeover in very broad terms.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4020742/ic-102103-t6b8.pdf>

He therefore takes the view that disclosure would add relatively little to public debate on this issue.

16. There is a broader public interest in transparency, but, in the Commissioner's view, this is easily outweighed by the public interest in allowing the UK to protect its interest abroad and in preventing the damage that might be caused if the UK was no longer seen as a country that could be trusted with sensitive information.
17. The Commissioner therefore considers that the balance of the public interest favours maintaining the exemption.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
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