

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 December 2014

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

Decision (including any steps ordered)

1. The complainant requested information held by the public authority pertaining to *Exercise Able Archer*¹ carried out by the North Atlantic Treaty Organisation (NATO) in 1983. The Commissioner's decision is that the public authority was entitled to withhold the information within the scope of the request on the basis of sections 23(1) and 24(1) FOIA.
2. No steps required.

Request and response

3. The complainant wrote to the public authority on 3 and 26 June 2013 and requested information in the following terms:

3 June 2013

'The Information Commissioner's Office has advised me that the Cabinet Office holds "a committee paper on the subject of the Soviet Union's response to the Able Archer Exercise, but it was not provided to the Cabinet Defence and Overseas Policy Committees.'

¹ This was a simulation exercise intended to gauge the effectiveness of NATO's Command, Control and Communications procedures in the event of a nuclear war.

I should be grateful if you would provide me with a copy of this paper.....

On 21 December 2012 I wrote to the Cabinet Office with a further request for information about Exercise Able Archer 1983. I have yet to receive acknowledgement or response to this request, which was for the following documents which I believe may be held by the Cabinet Office:

- A copy of Joint Intelligence Committee paper JIC(84)(N)45 entitled 'Soviet Union: Concern About a Surprise NATO Attack.'*
- Minutes from a meeting called by the Prime Minister on Wednesday 4 April 1984 to discuss this paper*
- Minutes from an ad hoc meeting called by the Prime Minister on 10 April 1984 to consider what action should be taken about the conclusions of the paper.*

I should be grateful if you would provide copies of these papers.'

26 June 2013

'Please provide me with a list of titles of all documents held by the Cabinet Office of which the recipients of this message are aware relating to the Soviet Union's response to Exercise Able Archer 1983

Please provide me with copies of all such documents'

4. The public authority responded to both sets of requests on 1 August 2013. It confirmed that it held the information requested. However, it claimed that all of the information was exempt from disclosure. Some of the information it considered was exempt on the basis of section 23(1) FOIA, and other information was exempt on the basis of section 24(1) FOIA. The rest of the information it considered was exempt on the basis of sections 26(1)(a) and (b) and 27(1)(a), (c) and (d) and (2) FOIA.
5. The complainant requested an internal review on 1 August 2013.
6. On 4 December the public authority wrote to the complainant with details of the outcome of the review. It upheld the original decisions above in full.

Scope of the case

7. On 19 December 2013, the complainant contacted the Commissioner to complain about the way his request for information had been handled. He challenged the application of exemptions on a number of grounds which are summarised further below.

8. In response to the Commissioner's queries, the public authority clarified its position as follows: it considered that the majority of the withheld information engaged the exemption at section 23(1), and the remainder, which is a very small part, engaged the exemption at section 24(1). In addition, it considered some of the information also engaged the exemptions at section 26(1)(a) and (b) and the exemptions at section 27(1)(a), (b), (c) and (d) and (2).
9. The scope of the investigation therefore was to determine whether all of the requested information was correctly withheld on the basis of the exemptions at sections 23(1) and 24(1) FOIA and if necessary, also determine whether some of the information was correctly withheld on the basis of the exemptions at sections 26(1)(a), 27(1)(a), (c) and (d) and (2) FOIA.

Reasons for decision

Sections 23(1) and 24(1)

10. Sections 23 (1) states:

'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. To successfully engage the exemption at section 23(1), a public authority must be able to demonstrate that the relevant information was *directly or indirectly supplied by, or relates to* any of the bodies listed at section 23(3).

12. Sections 24 (1) states:

'Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b)² is required for the purpose of safeguarding national security.'

² Section 1(1)(b) imposes a general duty on public authorities to disclose information to an applicant following a request, subject to exemptions such as the one contained in section 24(1).

Complainant's submissions

13. The submissions by the complainant in support of his position that the withheld information should be disclosed were as follows:
14. *'The Cabinet Office has not claimed that all documents are covered in totality by all the exemptions cited, so all parts of documents which are not covered by exemptions should be released to me. As an absolute bare minimum, I would expect the Cabinet Office to be able to provide me with a list of titles and dates of documents which fall within the scope of my request and contents pages or section headings for these documents.'*
15. *'As it is now nearly 30 years since Exercise Able Archer 83 took place, I do not consider that the security and international relations implications involved in releasing information about the exercise are significant. Able Archer 83 was an exercise for rehearsing combat operations against the Soviet Union and the Warsaw Pact, neither of which have existed for more than 20 years. Strategic military plans and foreign policy relating to a possible war with the Soviet Union and Warsaw Pact have also long since ceased to exist. The information in question would appear to have little, if any, relevance to current military operations or security operations.'*
16. The complainant also said that politicians and civil servants involved in decision making at the time of the Able Archer crisis in both UK and the former USSR are now retired or have died, and would suffer no embarrassment or harm to their careers if papers are released.
17. No evidence has been presented to show that the UK's overseas allies and NATO have been consulted or that they have any objections to the release of the information disclosed.
18. The former Soviet Union's response to Exercise Able Archer 83 is said to have come close to launching a nuclear strike on NATO nations. There is a substantial interest in the public knowing the potential risks to civilian life which were posed as a result of the exercise, whether control systems were adequate to address these risks.
19. Finally, the complainant argued that the Ministry of Defence (MOD) has also been able to release certain information relating to Exercise Able Archer. If the Ministry of Defence are able to release such information without harm to government interests, then so to can the Cabinet Office.

Public authority's submissions

20. The public authority provided the Commissioner with a letter from a very senior official in the Cabinet Office (SO) with the experience and authority to validate the provenance of the withheld information. The SO assured the Commissioner that most of the withheld information was either received from one of the bodies listed in section 23(3) or is directly related to them. The SO also explained that the information not considered exempt on the basis of section 23(1) was exempt on the basis of section 24(1).
21. The public authority also wrote back to the Commissioner separately with its conclusions on the balance of the public interest in relation to the application of the exemption at section 24(1). It also provided its response to the complainant's arguments in support of disclosure.
22. The public authority acknowledged that there was a general public interest in better public understanding the steps to authorities take to maintain national security, including an understanding of the lessons learned from exercises such as Able Archer.
23. However, those interests have to be weighed against the very strong public interest in safeguarding national security. It submitted that there is a very weighty public interest in protecting assessments of the effectiveness and impact of exercises such as Able Archer, including the reaction of the Soviet Union to the exercise.
24. The public authority took into account the age of the information and concluded that, although it was almost 30 years old, the information was still relevant today in the context of the UK's national security.
25. The public authority also explained that it did not consider whether disclosure would cause embarrassment or harm to politicians and civil servants as this was not relevant to the engagement of section 23(1) or the balance of the public interest in relation to section 24(1).
26. In determining the balance of the public interest, the public authority explained that it took into account the interests of all parties and consulted as appropriate. It submitted that it was not required to adduce evidence that the UK's overseas allies and NATO had been consulted or that they objected to release of the information.
27. The public authority also argued that whether or not the former Soviet Union's response to Able Archer is as the complainant believes, his assertion that it justifies the disclosure of the requested information does not follow. It is in the public interest to protect the requested information precisely in order to preserve the security and safety of the

civil population because, as mentioned, the information is still very much relevant today in the context of national security.

28. Finally, although the MOD has released some information relating to Exercise Able Archer, it does not follow that different information held by the Cabinet Office ought also to be disclosed. The Cabinet Office reached a judgement on exemptions engaged on the basis of the information it holds.

Commissioner's findings

29. The Commissioner has considered all the submissions of both parties and the implicit nature of the requested information. He accepts that in the circumstances of this case, the assurance provided by the SO with regards to the application of section 23(1) to most of the withheld information is sufficient.
30. He further accepts the assurance provided by the SO with regards to the application of section 24(1) to the remainder of the withheld information. The Commissioner considers that in the circumstances of this case, the SO's letter and the additional explanation subsequently provided by the public authority are sufficient for the purpose of his investigation.
31. The Commissioner therefore finds that most of the withheld information is exempt from disclosure on the basis of section 23(1) because it was supplied by, or relates to, one of the bodies listed in section 23(3).
32. He also finds that the information not exempt on the basis of section 23(1) is exempt from disclosure on the basis of section 24(1). He accepts that in the circumstances, exemption from disclosure is required for the purpose of safeguarding national security.
33. Section 23(1) is an absolute exemption which means that there is no requirement to carry out a public interest test to determine whether or not the information withheld on that basis should have been disclosed in any event in the public interest.

Balance of the public interest

34. Section 24(1) is a qualified exemption which means that it is subject to a public interest test. Therefore, the Commissioner also had to consider whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information withheld on that basis.

35. The Commissioner accepts that there is a public interest in understanding the lessons learned from Exercise Able Archer. He accepts that it could potentially add value to what is already publicly known regarding the exercise.
36. However, the Commissioner agrees with the public authority that there is a strong public interest in safeguarding national security. Given that the information is still relevant to national security today, the Commissioner considers that there is a strong public interest in not disclosing it.
37. The Commissioner agrees with the public authority that it is not required to provide evidence to show that the UK's allies and NATO had been consulted before the requested information was withheld. Furthermore, whether or not the MOD has disclosed information pertaining to Exercise Able Archer in the past is not relevant to the engagement of section 24(1) or indeed 23(1). That fact on its own does not increase the public interest in disclosure.
38. The Commissioner therefore finds that the public interest in maintaining the exemption at section 24(1) outweighs the public interest in disclosing the information withheld on that basis.
39. In view of his decision above, the Commissioner did not need to consider the applicability of the remaining exemptions relied on by the public authority.

Right of appeal

40. 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

41. 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.
42. 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
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**