

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 June 2017

Public Authority: Foreign and Commonwealth Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant submitted three separate requests to the Foreign and Commonwealth Office (FCO). All three requests sought information about the UK's relations with Saudi Arabia. The FCO confirmed that it held information falling within the scope of each of the requests but explained that it needed additional time to consider the balance of the public interest test for each of them. To date, the FCO has failed to complete its public interest test deliberations in relation to all three requests. By failing to complete these deliberations within a reasonable timeframe the Commissioner has concluded that the FCO has breached section 17(3) of FOIA in respect of its handling of all three requests.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a substantive response to his information requests of 20 December 2016 (FCO reference 1161-16), 11 January 2017 (FCO reference 0039-17) and 12 February 2017 (FCO reference 0162-17). If the FCO decides to withhold any information in response to these requests then the complainant should be provided with a refusal notice giving a full explanation as to why information will not be disclosed, including details of any public interest test considerations.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. The complainant submitted three requests to the FCO. The details of each of these requests are set out below.

Request 1161-16

5. The complainant submitted the following request to the FCO on 20 December 2016:

'I would like a list of meetings between Foreign Office ministers and either ministers or officials representing Saudi Arabia. I would like to know who was at the meeting, (including both British and Saudi officials and business representatives) to the extent that is compliant with rules in the FOI Act, and if British defence contracts and potential arms sales to the Kingdom of Saudi Arabia were discussed at each meeting. If this is over the spending limit, please give me a list of meetings in reverse chronological order (starting with the most recent). I would like the information in a machine-readable spreadsheet format if possible.

Please refine my request to the period between January 1 2015 and 20th December 2016'

6. The FCO contacted the complainant on 20 January 2017 and confirmed that it held information falling within the scope of his request but considered this information to be exempt from disclosure on the basis of section 27 (international relations) of FOIA and explained that it needed additional time to consider the balance of the public interest test.
7. Similar public interest extension letters were sent on 20 February, 17 March, 24 April, 18 May and 15 June 2017. To date, no substantive response has been issued to this request.

Request 0039-17

8. The complainant submitted the following request to the FCO on 11 January 2017:

'I would like the full diary/itinerary/agenda of Boris Johnson's trip to Saudi Arabia in mid-December 2016. I would like this to include names of those he met. I would like a list of ministers, officials and business people who accompanied the trip, to the extent that is compliant with rules in the FOI Act. As long as it does not take the request over the spending limit, I would like all FCO documents (preparatory briefings etc.) and correspondence relating to the trip.'

9. The FCO contacted the complainant on 9 February 2017 and confirmed that it held information falling within the scope of his request but considered this information to be exempt from disclosure on the basis of section 27 of FOIA and explained that it needed additional time to consider the balance of the public interest test. Similar letters were sent on 9 March, 6 April and 8 May 2017. To date, no substantive response has been issued to this request.

Request 0162-17

10. The complainant submitted the following request to the FCO on 12 February 2017:

'I would like to request a list of meetings that the British ambassador in Saudi Arabia attended from 12/02/2016 to 12/02/2017. I would like the list to cover all meeting that involved people who are not part of the British Embassy in Saudi Arabia and for the list to include: the date and location of each meeting; a list of those present (with names and positions for politicians and senior officials, and positions for those to whom Section 40 exemptions are applied); and the purpose of the meeting. I would like this to include meetings in both Saudi Arabia and other countries.

If providing a list of all meetings for the time period above is not possible within cost limits, then please provide me with as much of the list as possible in reverse chronological order.

I would like to highlight the precedent of this information being released by the FCO. I would like the information to be presented in a similar manner to the response to the FOI below:

<https://www.gov.uk/government/publications/foi-release-external-meetings-attended-by-british-ambassador-to-tunisia>

11. The FCO contacted the complainant on 14 March 2017 and confirmed that it held information falling within the scope of his request but considered this information to be exempt from disclosure on the basis of section 27 of FOIA and it needed additional time to consider the balance of the public interest test. Similar letters were sent on 11 April and 11 May 2017. To date, no substantive response has been issued to this request.

Scope of the case

12. The complainant contacted the Commissioner on 31 May 2017 to complain about the FCO's failure to provide him with a substantive response to his requests.

Reasons for decision

13. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled:

'(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.'

14. Section 10(1) of FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
15. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days, which would allow a public authority 40 working days in total. The Commissioner considers that any extension beyond 40 working days should be exceptional and requires the public authority to fully justify the time taken.
16. In the circumstances of all three of these requests the FCO has significantly exceeded the amount of time the Commissioner's guidance recommends for public interest test considerations. In the Commissioner's opinion the FCO has therefore failed to complete its public interest test considerations within a reasonable timeframe and therefore she has concluded that the FCO has not complied with section 17(3) of FOIA in respect of its handling of all three of these requests.

Right of appeal

17. 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

18. 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.
19. 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
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SK9 5AF