

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2023

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested information concerning correspondence and meetings between the Home Secretary at the time, Suella Braverman and/or the Permanent Secretary with the Israeli Embassy, its employees or representatives during a particular timeframe. The Home Office provided some information in the form of the dates but refused the remainder under section 27(1)(a) of FOIA (international relations).
2. The Commissioner's decision is that the Home Office was entitled to withhold the requested information under section 27(1)(a) of FOIA. However, the Home Office breached section 17(3) of FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 6 April 2023, the complainant wrote to the Home Office and requested information in the following terms:

"I am writing to request disclosure of information, if held by the Home Office, regarding correspondences and meetings held between:

- Secretary of State for the Home Department Suella Braverman and/or Permanent Secretary at the Home Office Matthew Rycroft, on the one hand,
- and the Embassy of Israel in London, or any employee or representative thereof, on the other.

Please provide all relevant information covering the periods when these individuals - Suella Braverman KC MP and Sir Matthew Rycroft - commenced their posts (6 September 2022 for the former and 17 March 2020 for the latter) to the present.

Please provide this information in PDF format, with any undisclosed information redacted. I am not requesting personal information."

5. After a delay (which the complainant informed the Commissioner was to consider the public interest) the Home Office responded on 13 June 2023 and confirmed "the Home Secretary met with the Israeli Ambassador in person on 11 November 2022 and had a phone meeting with them on 23 March 2023". Further information was withheld under section 27(1)(a) of FOIA.
6. The complainant asked for an internal review on 1 August 2023. This review was chased twice.
7. Following an internal review on 4 October 2023, the Home Office wrote to the complainant and maintained its position.

Scope of the case

8. The complainant contacted the Commissioner on 4 October 2023 to complain about the way their request for information had been handled. They pointed out the length of time it had taken for the Home Office to respond to their request and argued that it was in the public interest for the withheld information to be disclosed.
9. The Commissioner considers that the scope of his investigation is to decide whether the Home Office withheld information appropriately under section 27 of FOIA and any procedural matters that arose.

Reasons for decision

Section 27 international relations

10. Section 27(1) of FOIA states that:

“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

(a) relations between the United Kingdom and any other State,

[...]”

11. Section 27(5) explains that “State” includes the government of any State and any organ of its government, and references to a State other than the United Kingdom include references to any territory outside the United Kingdom.

12. The Commissioner’s guidance¹ on section 27 acknowledges that there is some overlap between the different provisions set out in the exemption. It also recognises that the interests of the UK abroad, and the UK’s international relations, cover a broad range of issues.

13. In order for a prejudice based exemption like section 27 to be engaged, the Commissioner considers that three criteria must be met:

- First, the actual harm which the public authority alleges would, or would be likely, to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption.
- Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance.
- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – i.e., disclosure would be likely to result in prejudice or disclosure would result in prejudice. If the likelihood of prejudice occurring

¹ [Section 27 - International relations | ICO](#)

is one that is only hypothetical or remote the exemption will not be engaged.

14. Furthermore, the Commissioner has been guided by the comments of the Information Tribunal which suggested that, in the context of section 27(1), prejudice can be real and of substance "if it makes relations more difficult or calls for a particular damage limitation response to contain or limit damage which would not have otherwise have been necessary"².
15. The Home Office has provided the Commissioner with a copy of the information it is withholding under this exemption.

The Home Office's position

16. Firstly, the Home Office describes Israel -

"as a close strategic partner, Israel and the UK engage closely across a range of policy issues. Collaboration and dialogue between the Home Office and the Israeli Embassy is an important feature in our bilateral relationship."

17. It argues that: "The effective conduct of the UK's international relations depends on maintaining trust and confidence between the UK government and foreign states." This trust and confidence "allow[s] for an environment conducive to the free and frank exchange of views, advice and information etc. on a wide variety of issues, such as trade, defence and security." The Home Office must exercise "caution...when considering information for disclosure within the context of this request".
18. The Home Office explained the prejudice to international relations if the requested information was disclosed. To do so would "undermine Israel's relationship with the UK and damage trust between the two countries". It argues that the "future sharing of information between the two countries would be jeopardised" and that "the Israeli government would no longer be able to reasonably expect that meetings (or invitations to arrange meetings) between representatives of the government would be kept private".
19. There would also be "a wider impact on the UK's geo-political relations in the Middle East". The Home Office argues that the "current climate" (the Middle East conflict and the "demonstrations and protests in the UK") make the public interest in withholding the information "particularly strong". The Home Office's view is that "disclosure would

² [Microsoft Word - caat 1 .2008.openfinal web dec .doc \(tribunals.gov.uk\)](#)

have a keen prejudicial effect on UK-Israeli relations at this sensitive time”.

20. The Home Office states that “Israel is one of the UK’s most important international partners in the Middle East and maintaining a good working relationship between the two nations is essential to ensure effective co-operation on a range of matters.” If the Home Office disclosed the requested information it “would unequivocally harm our relationship, which would in turn have a detrimental effect on the reciprocal co-operation between the UK and Israel”.
21. The Home Office’s internal review argued that:

“Correspondence is exchanged on an entirely voluntarily basis and it is vital that all participants in such discussions feel they are able to speak frankly and candidly which is a crucial aspect of the safe space required for effective international bilateral discussion. Disclosure of information would undermine Israel’s confidence in the UK, which would prejudice future discussions.”
22. With regard to the first criterion of the three limb test described in paragraph 13, the Commissioner accepts that the potential prejudice set out by the Home Office clearly relates to the interests which section 27(1)(a) is designed to protect.
23. The Commissioner accepts that the other two criterion are met and that section 27(1)(a) is engaged because the parties involved would have a reasonable expectation that the content of these communications would remain confidential. There is a causal link between release and prejudice to the relations between the UK and Israel if the result was a decline in trust. Having considered the arguments put forward by the Home Office, the Commissioner’s view is that the higher level of prejudice, ‘would occur’ has been demonstrated in terms of the wider potential effect of release.

Public interest test

24. The Commissioner will now look at the public interest factors as to whether this information should nevertheless be released.

Public interest factors in favour of disclosing the information

25. In their internal review request the complainant contended that the Home Office had “misapplied” the public interest test and that there was a strong public interest in disclosing the withheld information.
26. The complainant also argued that,

"... there is a clear public interest in disclosure of the Home Office's correspondence with the Embassy of Israel. The interventions - real or attempted - of the Israeli state in Home Office matters are of specific interest to the public at large. While they make note of the potential to 'prejudice relations with other States', it is my conviction that it cannot be said that disclosure of any information whatsoever would by necessity prejudice relations. If it is the Home Office's contention that the disclosure of certain materials may prejudice relations, then S27 should apply to that material specifically and they should use their liberty to retract whatever those materials may be. I do not agree, however, that the disclosure of even the most mundane details of correspondence would have such an effect".

27. The Home Office pointed to the -

"general public interest for HM Government to be open and transparent to maintain public trust. Such openness and transparency improves accountability and helps public engagement with HM Government".

28. It states that release could have "the effect of increasing public awareness of bi-lateral relations between the UK and Israel and may encourage greater public participation and debate". The Home Office also acknowledges "the public interest in ensuring that the UK enjoys effective international relations with other states, in order to further its foreign policy and domestic policy aims".

Public interest factors in favour of maintaining the exemption

29. However, the Home Office argues that public interest in non-disclosure has "a clear and compelling justification for protecting the requested information to ensure that communications can take place between the UK and Israel without fear of information being disclosed". It contends that it is "particularly the case in this instance when the discussion is still relatively recent".

30. The Home Office states that a "safe space" is "required for effective international bilateral discussion" by "ministers and officials to communicate candidly":

"Without the protection afforded by this safe space, confidential information-sharing and discussion, policy development, and in general, effective co-operation between the UK and Israel (or any other State for that matter) would be markedly more difficult, both now, and in the future."

The Home Office points to the strength of the public interest argument to withhold the information “in the current climate as a result of the recent eruption of conflict in the Middle East and continuing public demonstrations and protests in the UK”. It had stated in the internal review that confidentiality was important and that the public interest lay in not prejudicing relations between the UK and Israel.

31. The Home Office characterises the public interest in this instance as –

“best served by officials and Ministers being allowed to communicate confidentially with foreign governments, with all parties assured in the knowledge that their deliberations will be held in confidence and not be made public”.

The disclosure of the withheld information -

“would in our view increase tensions and decrease the likelihood of Israeli state members meeting with the Home Secretary and other Secretaries of State at this sensitive time, which would be against the public interest”.

32. In the internal review the Home Office had said that “the impact would have a limiting and negative effect on the interests of the UK abroad and its relations with other international organisations, courts or states”. The public interest lay “in ensuring that the UK enjoys effective international relations with other states, organisations and courts in order to further its foreign policy and domestic policy aims”.

The balance of the public interest

33. It would appear that the complainant was content for information that might prejudice relations between the UK and Israel to be redacted but argued that this did not apply to “mundane details”. However, some information concerning dates has been disclosed and the Commissioner is not persuaded that disclosing “mundane details” represents a compelling public interest.

34. Having seen the withheld information and been provided with arguments (some of which cannot be reproduced here), the Commissioner accepts that the Home Office has appropriately withheld the requested information and that it is not in the public interest for it to be disclosed. The Commissioner notes that this exemption does not necessarily focus on the importance, subject or content of the requested information, but on whether UK interests abroad, or the international relations of the UK would be prejudiced through the disclosure of the information. In other words, section 27(1) focuses on the effects of the disclosure. The Commissioner considers that the public interest in maintaining good

international relations between the UK and Israel is greater than the public interest in transparency regarding the requested information.

Procedural matters

35. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “no later than the twentieth working day following the date of receipt”.
36. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a “reasonable” extension of time to consider the public interest in maintaining the exemption or disclosing the information.
37. FOIA does not quantify “reasonable”. The section 45 Code of Practice³ on request handling states that “it is best practice for an extension to be for no more than a further 20 working days”. This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.
38. The total time taken by the Home Office to respond fully to the complainant exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the public authority has not complied with section 17(3).

Other matters

39. The section 45 code of practice⁴ recommends that public authorities complete the internal review process and notify the complainant of its findings within 20 working days, and certainly no later than 40 working days from its receipt.

³ [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf \(publishing.service.gov.uk\)](#)

⁴ Ibid

40. In this case the Home Office acknowledged that it did not provide an internal review for over 40 working days and was therefore beyond the recommended timeframe.

Right of appeal

41. 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

42. 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.
43. 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

Janine Gregory
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