

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

### **Decision notice**

**Date:** 21 February 2024

**Public Authority:** Cabinet Office  
**Address:** 1 Horse Guards Road  
London  
SW1A 2HQ

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

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1. The complainant has requested information from the Cabinet Office. The Cabinet Office has cited sections 23(1), 26(1)(b) and 27(1) of FOIA as a basis for non-disclosure.
2. The Commissioner's decision is that the Cabinet Office has correctly applied section 23(1) of FOIA, which applies to the entirety of the requested information.
3. Therefore the Commissioner requires no steps to be taken by the Cabinet Office.

#### **Request and response**

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##### **The request**

4. On 14 October 2022 the complainant requested information in the following terms:-

"According to the 2017 ISC (Intelligence and Security Committee) report entitled, UK Lethal Drone Strikes in Syria, published in April 2017, it is reported,

" 9. ...We requested material relating to targeting procedures and the consideration of potential collateral damage, but this was declined on the basis that it was not within the scope of the Inquiry set by the former Prime Minister. We also requested sight of the submissions which were put to Ministers regarding the intelligence assessments. However, the National Security Secretariat, on behalf of the Prime Minister, declined to provide these to the Committee on the basis that the Ministerial submissions did not contain any additional material relevant to the threat posed by Khan, and therefore were outwith the agreed scope of the Inquiry. " Source: p.2., ISC report. UK Lethal Drone Strikes in Syria (April 2017)  
[https://isc.independent.gov.uk/wpcontent/uploads/2021/01/20170426\\_UK\\_Lethal\\_Drone\\_Strikes\\_in\\_Syria\\_Report.pdf](https://isc.independent.gov.uk/wpcontent/uploads/2021/01/20170426_UK_Lethal_Drone_Strikes_in_Syria_Report.pdf)

Please provide the following information:-

1. All material relating to targeting procedures and the consideration of potential collateral damage for the 2015 drone strike in Syria.
2. All submissions which were put to Ministers regarding intelligence assessments related to the 2015 strike in Syria.
5. The Cabinet Office responded on 11 November 2022. It confirmed that it held the requested information, however it was refusing to disclose it under section 23(1) of FOIA (national security).
6. In the Cabinet Office's internal review response to the complainant on 27 January 2023 it upheld the application of section 23 and stated that sections 26 (defence) and 27 (international relations) also applied to some of the requested information.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 29 January 2023 to complain about the Cabinet Office's handling of their request.
8. The Commissioner has considered the Cabinet Office's handling of the request, in particular its application of the specified exemptions.

## Reasons for decision

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9. Under section 23(1) of FOIA, information 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).
10. In the case of *Lownie v IC & FCO*<sup>1</sup> the Upper Tribunal found that the phrase 'relates to' includes both a direct and indirect connection (paragraphs 59 and 60). Furthermore, the Commissioner's guidance on section 23 explains the interpretation of 'relates to' as including any information concerning or linked to the activities of a security body.
11. The Cabinet Office has provided evidence to the Commissioner that the requested information 'relates' to a body specified in subsection (3), i.e. the ISC. The requests concern a report by the ISC and section 23(3) of FOIA, which contains the list of bodies referred to in section 23(1) of the Act, includes:

'(o) the Intelligence and Security Committee of Parliament.'

As the requested information is referenced in the ISC report, it therefore relates to the ISC and is exempt from disclosure under section 23(1) of FOIA.

12. The Commissioner also notes that, from paragraph 9 of the ISC report, the ISC had: '...received written material, including two contemporaneous MI5 intelligence assessments relating to Reyaad Khan'. Section 23(3) of FOIA includes:

'(a) the Security Service'.

Its involvement is therefore explicitly referenced in the report and the requested information can be said to have been supplied to the Cabinet Office by it or relates to it.

13. Also, in relation to targeting procedures (part 1 of the request), in paragraph 9 of the ISC report it is stated that, during an oral evidence session with intelligence agencies and the Deputy National Security Adviser on 21 January 2016, the ISC:

'...requested material relating to targeting procedures and the consideration of potential collateral damage, but this was declined on

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<sup>1</sup> GIA/2690/2018

the basis that it was not within the scope of the Inquiry set by the former Prime Minister.'

14. As the ISC sought such information from the intelligence agencies (contained in section 23(3) of the Act), it is apparent that the requested information is that which was directly or indirectly supplied by them, and relates to them. The Commissioner is satisfied that this is the case. As such, the Commissioner's decision is that the Cabinet Office has correctly applied section 23(1) of FOIA to part of the information it holds falling within the scope of the complainant's request and is entitled to withhold it.
15. Section 23 is an absolute exemption and is not subject to the public interest test except in the case of historical records, which does not apply to the current case.
16. As the Commissioner is satisfied that section 23(1) of FOIA applies to the entirety of the requested information, he has not gone on to consider the Cabinet Office's application of sections

## Right of appeal

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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: 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)

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 .....**

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**