

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 September 2024

Public Authority: House of Commons

Address: London
SW1A 0AA

Decision (including any steps ordered)

1. The complainant has requested information about a decision not to join the "Friendly WiFi" scheme. The House of Commons disclosed some information but relied on sections 24 (national security), 31 (law enforcement) and 36 (prejudice to the effective conduct of public affairs) of FOIA to withhold information.
2. The Commissioner's decision is that the House of Commons was entitled to rely on section 36 in the manner that it has done. The House of Commons was also entitled to rely on section 24 of FOIA and the balance of the public interest favours maintaining that exemption.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 23 January 2024 the complainant requested information of the following description:

"I am given to understand, following an intervention by Mr Speaker and consultations with politicians, a decision was taken not to proceed with seeking accreditation to "Friendly WiFi". This reversed and cancelled a previous indication given by officials. They thought Parliament would seek accreditation.

"In that light I would like to make a FOI request for any documents, emails or other communications pertaining to this matter.

"If the decision not to proceed was not taken by the House of Commons Commission, who did take it, when and where, and what were the reasons given?"

5. On 12 March 2024, the House of Commons responded. It provided some information within the scope of the request but refused to provide the remainder. It relied on sections 24, 31, 36 and 40(2) of FOIA.
6. The complainant requested an internal review on 29 March 2024. The House of Commons sent the outcome of its internal review on 30 April 2024. It upheld its original position.

Reasons for decision

Section 36 – prejudice to the effective conduct of public affairs

7. Section 36 allows a public authority to withhold information whose disclosure would otherwise prejudice the effective conduct of public affairs.
8. To engage the exemption, a very senior person within the organisation must usually provide an opinion stating why disclosure would or would be likely to cause that prejudice. The Commissioner must then assess whether that opinion is reasonable. If the exemption is engaged, the information must still be disclosed unless the balance of the public interest favours maintaining that exemption.
9. However, for the House of Commons, section 36(7) allows the Speaker of the House to issue a certificate, certifying that disclosure of particular information would cause prejudice and to have that certificate accepted, by the Commissioner, as conclusive evidence of that fact. Furthermore, in such a scenario, there is no requirement to carry out a public interest test.
10. The Commissioner has not seen the withheld information, but he understands that it comprises of two emails.
11. The House of Commons provided the Commissioner with a document, signed by the Rt Hon Sir Lindsay Hoyle MP, the Speaker of the House. In that document, Sir Lindsay certifies that, in his reasonable opinion, disclosure of the information would otherwise prejudice the effective conduct of public affairs.
12. The Commissioner has no reason to doubt the authenticity of this document. The law does not permit the Commissioner to challenge the

reasonableness of Sir Lindsay's opinion or his decision to issue a certificate.

13. The Commissioner is therefore bound to accept that the exemption is engaged and, as there is no public interest test, this information is exempt.

Section 24 – national security

14. Section 24 of FOIA allows a public authority to withhold information where that is required for the purposes of safeguarding national security.
15. The House of Commons has applied this exemption to a part of one sentence in an email it has otherwise disclosed. In broad terms this piece of information relates to specific features of the Parliamentary IT network.
16. The House of Commons explained that its IT network was a key target for hackers. It was important that MPs and Peers – particularly those who are also ministers – are able to communicate securely with each other and with those they represent.
17. In addition, the House of Commons provided a detailed explanation of why this particular information was sensitive. The Commissioner is unable to reproduce that explanation here without risking undermining the reason for applying the exemption in the first place.
18. As a branch of government, it is essential that Parliament is able to function. That functioning includes having a secure IT network. A risk to the IT network is a risk to a branch of the government and therefore a risk to national security.
19. The Commissioner accepts that the complainant has not set out to seek information that might compromise national security. Unfortunately the wording of his request has captured an email which contains a very small amount of this material.
20. The Commissioner is satisfied with the arguments that the House of Commons has presented and accepts that disclosure of this information would present a risk to national security. Withholding the information is therefore required for the purposes of safeguarding national security and thus the exemption is engaged.

Public interest test

21. Even where there is a risk to national security, the information must still be disclosed – unless the balance of the public interest favours maintaining the exemption.
22. The complainant has argued that both Houses of Parliament originally seemed keen to join the Friendly WiFi scheme, but then changed their minds without explanation. He argues that there is a public interest in understanding why that decision was made.
23. In this case the balance of the public interest favours maintaining the exemption.
24. Having seen the actual information being withheld, the Commissioner does not consider that it would add anything to public understanding of why the decision was made. The public interest in disclosure is therefore low.
25. By contrast the public interest in maintaining the exemption is high. There will always be a strong public interest in safeguarding national security.
26. The Commissioner is therefore satisfied that section 24 of FOIA is engaged and that the balance of the public interest favours maintaining the exemption.

Right of appeal

27. 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

28. 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.
29. 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
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