

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 October 2024

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

Decision (including any steps ordered)

1. The complainant has requested information from the Cabinet Office relating to the awarding of an honour to Javad Marandi. The Cabinet Office confirmed that it held information in the scope of the request but, it considered this to be exempt on the basis of sections 37(1)(b)¹, 40(2)², and s41(1)³ of FOIA but that it neither confirmed nor denied on the basis of s23(5)⁴ whether it held any further information.
2. The Commissioner's decision is that the Cabinet Office is entitled to withhold the requested information about the awarding of an honour to Javad Marandi on the basis of section 37(1)(b) and rely on section 23(5) in the manner which it has.
3. The Commissioner does not require further steps.

¹ [Communications with His Majesty and the awarding of honours \(section 37\) | ICO](#)

² [Section 40 and Regulation 13 – personal information | ICO](#)

³ [information-provided-in-confidence-section-41.pdf \(ico.org.uk\)](#)

⁴ [Section 23 – Security bodies | ICO](#)

Request and response

4. On 18 May 2023, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I am writing to enquire as to the process by which Javad Marandi was nominated for an OBE which he received on 28th December 2019. In particular I would like to know which individual or organisation nominated him for this award and when this nomination occurred.

Thank you in advance for any assistance you can offer in this matter.

Thank you for this fast response, I fully understand the need for confidentiality in relation to this in most cases.

I am aware however that in certain circumstances, information like this has been disclosed through the Freedom of Information regime. In particular I'd like to highlight the case of BBC journalist Martin Rosenbaum who was successful in obtaining information on the nomination process for Vijay Patel's OBE in 2020.

A write up of this can be found here in the Times Newspaper:

[Drug firm boss Vijay Patel gets OBE despite 'overcharging' NHS by £80m \(thetimes.com\)](https://www.thetimes.com/uk/news/politics/article/drug-firm-boss-vijay-patel-gets-obeserve-despite-overcharging-nhs-by-80m-20230518)

The tribunal judgement can be found here, (I have also attached the annex which stated which information was disclosed):

[https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2747/Rosenbaum, %20Martin%20\(EA.2019.0050\)%20050120.pdf](https://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2747/Rosenbaum,%20Martin%20(EA.2019.0050)%20050120.pdf)

The public interest case for understanding the process by which Mr Marandi was nominated and obtained an honour is very similar and perhaps more pronounced than that of Mr Patel as set out in brief below: ·

Javad Marandi was finally able to be named this week in relation to a police probe into a major money laundering scheme this week after a 19 month legal battle: [Javad Marandi: Tory donor's link to massive money laundering probe - BBC News](https://www.bbc.com/news/health-67444444)·

Mr Marandi's naming in this court case was then the subject of a debate in Parliament over the probity of political donations:

[Conservative party told to 'clean up' after donor is linked to major money laundering probe - Politics.co.uk](https://www.politics.co.uk/news/articles/2023/05/18/conservative-party-told-to-clean-up-after-donor-is-linked-to-major-money-laundering-probe)

The NCA's investigation was based on reporting which dates back to 2017 when the Organised Crime and Corruption Reporting Project first released their Azerbaijani Laundromat investigation:

<https://www.occrp.org/en/azerbaijanilaundromat/>

Mr Marandi was named in the reporting here: [AvroMed May Have Received Millions Through Laundromat | OCCRP](#)

Mr Marandi is a major political donor, having given £633,800 to the Conservative party between 2014 and 2020. Four of Mr Marandi's donations were big enough to secure him access to successive UK Prime Ministers, either through the Conservative Party's Leaders Group (now defunct) or Advisory Board. Membership of the Leader's Group was £50,000, and the Financial Times reports the cost of the Advisory Board is now £250,000.

It is on public record that he introduced the daughters of Azerbaijan's President to a British law firm in relation to a proposed £60 million property deal in London in which he was the vendor, and also "gifted" a London apartment to Mirjalal Pashayev, cousin to Azerbaijan's first lady, Mehriban Aliyeva. These transactions were investigated by the Solicitors Regulatory Authority resulting in a disciplinary tribunal in 2018 in which they found major money laundering failings of the solicitor.

See: [Azerbaijan leader's daughters tried to buy £60m London home with offshore funds | UK news | The Guardian](#) and <https://www.solicitortribunal.org.uk/sites/default/files-sdt/11805.2018.Sharif.pdf>

There is a clear public interest in understanding how Mr Marandi's OBE was awarded. Providing this information would enable public understanding of a controversial issue so that the important decisions and processes involved in this awarding of an honour on behalf of the nation are subject to proper scrutiny, transparency and accountability and to reassure the public as to the appropriate working of the honours system.

In light of this I would like to ask again for all information held within the Honours and Appointments Secretariat relating to the awarding of an honour to Javad Marandi."."

5. The Cabinet Office responded on 4 October 2023, refusing to confirm or deny whether it held the requested information. In its response the Cabinet Office said:

"The Cabinet Office neither confirms nor denies that it holds information you have requested, under section 23(5), 40(5), 37(2) and 41(2) of the Freedom of Information Act."

6. The complainant requested an internal review on 24 October 2023, and the Cabinet Office provided the outcome of that internal review on 14 December 2023. In its response the Cabinet Office said:

"Following your request for an Internal review we have considered the additional points you have put forward. Firstly, you have asserted that "Section 23(5) of the act is not applicable unless Mr Marandi was nominated for an OBE by the security services". Having reviewed your request, I consider that the application of Section 23(5) was correctly made.

On review, I have determined that given Mr Marandi has been awarded an OBE that we are able to confirm that we do hold information in scope of the request (with the above caveat). I have therefore gone on to consider the specific points raised in your internal review request."

7. The Cabinet Office went on to explain its decision to maintain section 23(5).

8. In addition, the Cabinet Office said:

"You have also asserted that Sections 37(2) and 41(2) are not applicable following the decision made in the tribunal hearing between the Cabinet Office and Martin Rosenbaum. As with the above, every case must be considered on its individual merits and we do not believe the same circumstances apply here.

I have carefully reviewed the handling of your original request and I consider that the exemption at section 37(1)(b) of the Act was properly applied."

9. To clarify its final position the Cabinet Office confirmed that it held information in the scope of the request but, it considered this to be exempt on the basis of s37(1)(b), 40(2), and s41(1) but that it neither confirmed or denied, on the basis of s23(5), whether it held any further information.

Scope of the case

10. The complainant contacted the Commissioner on 15 January 2024 to complain about the way their request for information had been handled.

They argued that there was a compelling public interest in the disclosure of the information the Cabinet Office has sought to withhold.

11. The Commissioner considers that the scope of his investigation is to determine whether the Cabinet Office was entitled to withhold the requested information.

Reasons for decision

Section 37(1)(b)- the conferring by the Crown of any honour or dignity

12. Section 37(1)(b) states that information is exempt if it relates to the conferring by the Crown of any honour or dignity.
13. Given that the request specifically seeks information relating to the awarding of an honour to a named individual, the Commissioner is satisfied that all of the withheld information clearly falls within the scope of the exemption at section 37(1)(b). The requested information is therefore exempt on the basis of section 37(1)(b). For clarity, the Commissioner can confirm that he has inspected the information in question.
14. Section 37(1)(b) provides a qualified exemption and therefore it is subject to the public interest test set out in section 2(2)(b) of FOIA. The Commissioner has therefore considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the withheld information.

Public interest arguments in favour of disclosing the withheld information

15. In their submission to the Commissioner the complainant said:

“An NCA investigation has since shown that prior to this award, some of Mr Marandi's overseas interests played a key role in an elaborate money-laundering scheme involving one of Azerbaijan's richest oligarchs. With this in mind, the award raises questions as to what procedures had been followed, and in particular whether the appropriate vetting processes had been adhered to.”
16. Therefore, considering the NCA money laundering investigation the complainant argued that there is a clear public interest in understanding how Javad Mirandi's OBE was awarded. The release of the information would allow the public a better understanding into the decisions and processes involved in the awarding of an honours.

17. The complainant further argued that releasing this information would provide some reassurance to the public about the transparency and accountability of the process.
18. The complainant went on to argue that in the proceedings of Martin Rosenbaum and the Cabinet Office⁵ the Commissioner determined that “there are strong public interest grounds for disclosing information relating to the award of an honour when there appears to be some incongruity between the award of an honour and circumstances around it which may make it seem ‘perverse’”.

Public interest in favour of maintaining the exemption

19. The Cabinet Office recognises the importance of transparency wherever possible and the public interest in understanding the workings of the honours system. However, it argued that the content of the process in relation to this nomination needs to remain confidential to maintain the integrity of the honours system and to ensure that assessment of nominations may continue to be taken on the basis of full and honest information.
20. It believes it is crucial that those who offer opinions may do so freely and honestly, in confidence, on the understanding that their confidence will be honoured. Furthermore, it considers that it is essential to the integrity of the honours system that the way nominations are assessed is kept confidential.
21. The Cabinet Office argued that it has always been the case that those involved in the system require the freedom to be able to discuss and deliberate individual honours cases in a safe space.

Balance of the public interest test

22. With regard to the weight that should be attributed to maintaining the section 37(1)(b) exemption, as a general principle the Commissioner accepts the Cabinet Office’s fundamental argument that for the honours system to operate efficiently and effectively there needs to be a level of confidentiality which allows those involved in the system to freely and frankly discuss nominations.
23. Furthermore, the Commissioner accepts that if views and opinions, provided in confidence, were subsequently disclosed then it is likely that those asked to make similar contributions in the future may be reluctant to do so or would make a less candid contribution. Moreover, the Commissioner also accepts that disclosure of information would erode

⁵ [FOIA-EIR decision notice template \(ico.org.uk\)](https://ico.org.uk/foia-eir/decision-notice-template)

this confidentiality, and thus damage the effectiveness of the system, which would not be in the public interest.

24. In the specific circumstances of this case the Commissioner acknowledges that Javad Mirandi being named in a NCA investigation as a "person of importance" is a serious issue and one that has generated significant public interest. As a result the Commissioner accepts, as the complainant has argued, this raises the public interest in disclosure in this particular case.
25. The Commissioner acknowledges the complainant's reference to the decision notice in the case between Martin Rosenbaum and the Cabinet Office in which the Commissioner ordered some of the information to be disclosed.
26. It is the Commissioner's opinion that the Rosenbaum case does not set a precedent for all cases of a similar nature, rather that all complaints should be considered individually. Furthermore, the Rosenbaum case ordered disclosure of only one piece of information which is detailed in the confidential annex of the decision notice.
27. Having reviewed the withheld information and, detailed confidential submissions provided by the Cabinet Office in this case, the Commissioner is satisfied that the circumstances of the Rosenbaum case do not apply here.
28. On balance, having considered these competing arguments carefully, the Commissioner has reached the conclusion that the public interest does not favour disclosure of the withheld information.

Section 23-security bodies

29. The Cabinet Office also explained that it was relying on section 23(5) of FOIA as a basis to refuse to confirm or deny whether it held any further information falling within the scope of the request other than that which it had already sought to withhold on the basis of sections 37(1)(b), 40(2) and 41(1) of FOIA.
30. Section 23(5) excludes the duty of a public authority to confirm or deny whether it holds information which, if held, would be exempt under section 23(1) or 24(1) respectively.
31. Information relating to security bodies specified in section 23(3) is exempt information by virtue of section 23(1). Information which does not fall under section 23(1) is exempt from disclosure under section 24(1) if it is required for the purpose of safeguarding national security.

32. By virtue of section 23(5) the duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in section 23(3).
33. The test as to whether a disclosure would relate to a security body is decided on the normal standard of proof, that is, the balance of probabilities. In other words, if it is more likely than not that the disclosure would relate to a security body then the exemption would be engaged.
34. From the above it can be seen that section 23(5) has a very wide application. If the information requested is within what could be described as the ambit of security bodies' operations, section 23(5) is likely to apply. This is consistent with the scheme of FOIA because the security bodies themselves are not subject to its provisions. Factors indicating whether a request is of this nature will include the functions of the public authority receiving the request, the subject area to which the request relates and the actual wording of the request.
35. The Commissioner finds that on the balance of probabilities, further information about this subject matter, if held, could be related to one or more bodies identified in section 23(3).
36. In light of the above findings, the Commissioner has not considered the Cabinet Office's reliance on section 40(2) (personal data) and 41(1) (information provided in confidence).

Procedural matters

37. As the public authority failed to issue its refusal notice within 20 working days, it breached section 17 of FOIA.

Right of appeal

38. 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

39. 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.
40. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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