

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **31 October 2024**

Public Authority: **Atomic Weapons Establishment**
Address: **Aldermaston**
Reading
Berkshire
RG7 4PR

Decision (including any steps ordered)

1. The Atomic Weapons Establishment (AWE) is an executive non-departmental public body, sponsored by the Ministry of Defence.
2. The Commissioner's decision is that AWE is entitled to withhold photographs the complainant has requested under sections 27(1)(a) and 27(2) of FOIA. These exemptions concern international relations and confidential information received from another State.
3. It's not necessary for AWE to take any corrective steps.

Request and response

4. The complainant made the following information request to AWE on, the Commissioner understands, 16 May 2024:

"PHOTOGRAPHS OF UK-NORWAY INITIATIVE AND LETTERPRESS EXERCISES 2009 AND 2017..."
5. AWE's final position is that it doesn't hold some of the requested information (photographs relating to the UK-Norway Initiative) and that relevant information it does hold (photographs of the Letterpress

exercise) is exempt under sections 27 and 40(2) of FOIA. AWE also advised that relevant information that's already published is exempt under section 21 of FOIA. Section 40(2) concerns personal data and section 21 concerns information accessible to the applicant by other means.

Reasons for decision

6. On the basis of their complaint to the Commissioner, this reasoning covers AWE's application of sections 27 or 40(2) of FOIA, or both, to the photographs of the Letterpress exercise¹.

Section 27 – international relations

7. Section 27(1)(a) of FOIA states that information is exempt information if its disclosure would, or would be likely to, prejudice relations between the United Kingdom and any other State.
8. Under section 27(2), information is also exempt information if it's confidential information obtained from a State other than the United Kingdom.
9. AWE's position in its correspondence to the complainant is that disclosing the photographs would be likely to risk relations between the UK and Norway, and that it obtained the photographs confidentially from Norway.
10. In their complaint to the Commissioner the complainant echoed points they had made in their request for an internal review, and said:

"First, there is no confidential information at stake received in confidence from the Norwegian government and various Norwegian research institutes involved in the original exercise. Nor is there evidence that in this specific case the information would or likely to prejudice relations between the UK and Norway. Both the UK and Norway made an express point of reporting the results of the 2009 exercise to meetings of the NPT in 2010, including in presentations containing multiple photographs taken during the exercise. These can be found on the UK.GOV website...

¹ <https://www.gov.uk/government/news/uk-hosts-international-nuclear-disarmament-verification-exercise>

...If memory serves, there was an explicit agreement by Letterpress participants that there were no objections to photography since the expectation was that images would be needed for international and wider public reporting purposes.

11. In relation to section 27(1), in its submission to the Commissioner AWE has advised the following:

- The Letterpress images were copied to AWE in 2018 under the expectation that they would not be further shared with third parties.
- The information withheld pertains to images from the 'Letterpress Exercise'. These images were taken by and are owned by the Norwegian Government, subject to Norwegian and Crown copyright. They were shared with AWE in confidence under a mutual agreement as part of the exercise partnership.
- The images do contain individuals' faces, making them identifiable.
- AWE Security strongly advise against releasing personal information including images of individuals working in this sector into the public domain; given the significant personal security risks in the deteriorating global security environment.
- A representative sample of these images, already in the public domain, can be found at quad-nvp.info/projects/letterpress/
- This website is owned by 'The Quad', a collaboration between Norway, Sweden, the USA, and the UK, working on nuclear disarmament verification.
- AWE is unaware of any considerations undertaken in the releasing of the publicly available images; and would not like to prejudice ongoing collaborations by releasing more information.

12. In respect of matters of confidentiality and Trust, AWE has advised the following:

- The images were taken during a collaborative exercise between Norway, USA and Sweden with the UK and subsequently sent to AWE. There is a mutual understanding of confidentiality between the Norwegian Government, AWE, and the UK Government that these images would not be shared with any other party.

- Releasing these images would betray the confidentiality and trust placed in AWE, potentially prejudicing the relationship between the UK and Norway, and affecting broader international relations.
 - Ongoing sensitive projects between the two nations and the Quad are expected to continue into 2025. Disclosure could undermine the trust of the governments involved, making them less willing to collaborate with the UK in future initiatives.
13. In respect of the impact on international relations, AWE has advised the following:
- Disclosure of the requested information could demonstrate a lack of trust to other international partners, indicating that sensitive information of a national security nature could be disclosed through future FOIA requests. This could ultimately prejudice the interests of the United Kingdom abroad in the field of national security and defence.
14. AWE has also discussed section 27(2) in its submission. It says it received the information from the Quad under a mutual understanding of confidentiality. Disclosure would be seen as reneging on the basis for which the data was obtained, especially as there are ongoing initiatives.
15. It says that there is a realistic expectation of confidentiality under Section 27(2), as a lack of confidentiality would harm public interest by flouting international confidence. Official routes to request permission to publish should be followed which would allow for international partners to agree disclosure.
16. When he's considering whether section 27(1) is engaged, the Commissioner considers three tests.
17. First, whether the envisioned harm is one which the exemptions in section 27(1) are designed to protect. In this case, the Commissioner accepts that the envisioned harm does concern international relations; those between the UK and Norway.
18. Second, whether a causal link has been demonstrated between the disclosure and the harm. AWE has explained that the photographs were taken and are owned by the Norwegian Government and were shared confidentially with AWE as part of an exercise partnership.
19. Irrespective of other photographs of the exercise that have been published (not by AWE), AWE considers that disclosing the requested photographs under FOIA would undermine Norway's trust in the UK and betray the confidence Norway has placed in it. Disclosure could make Norway less willing to collaborate with the UK in the future. AWE has

also noted that sensitive exercises involving Norway and the UK are ongoing at this time.

20. The Commissioner accepts that the second test is met as AWE has shown how disclosing the requested information would or could prejudice its relations with Norway.
21. Finally, the Commissioner has considered the likelihood of the envisioned harm actually occurring. In this case, AWE appears to consider that the harm "would be likely to" happen. This is a lower threshold and, as such, the Commissioner considers it is credible. But there is still a real and significant risk of the harm occurring.
22. Because the three tests have been met, the Commissioner finds that AWE is entitled to withhold the information under section 27(1)(a) of FOIA because disclosing the photographs would be likely to prejudice relations between Norway and the UK. He'll go on to consider the public interest test associated with this exemption.
23. Regarding section 27(2), on the basis of its submission to him, the Commissioner accepts that the circumstances in which Norway provided the information to AWE implied that it was being provided in confidence. He also considers that the sensitivity of the information – photographs of individuals taking part in a multilateral nuclear disarmament verification exercise – would indicate that Norway would want it to be treated confidentiality.
24. The Commissioner therefore finds section 27(2) is engaged and will also consider the public interest test associated with this exemption.

Public interest test

25. There's a public interest in public authorities such as AWE demonstrating that they're open and transparent.
26. However, regarding section 27(1)(a), the Commissioner has found that disclosing the photographs that the complainant has requested would be likely to harm the UK's relationship with Norway. The Commissioner acknowledges that the complainant has a personal interest in the photographs, but he doesn't accept that the wider public interest in them is such that it warrants harming international relations. And some information about the Letterpress exercise is already in the public domain.
27. The Commissioner is satisfied that there's greater public interest in Norway and the UK maintaining good relations. That's the case particularly at this time when the two countries are working together on other exercises, and the global environment is insecure.

28. For similar reasons, in relation to section 27(2), the Commissioner is satisfied that there's greater public interest in Norway being able to trust that the UK will appropriately manage information Norway has provided to it confidentially.
29. The Commissioner has decided that section 27 is engaged and the public interest favours maintaining this exemption. As such, it hasn't been necessary for him to consider AWE's application of section 40(2) to the same information.

Right of appeal

30. 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

31. 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.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
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