

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 June 2025

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

Decision (including any steps ordered)

1. The complainant has requested presentation materials for a Home Office Security and Policing event. The Home Office refused the request, citing sections 23(1) (Information supplied by or relating to security bodies), 24(1) (National security), 31(1)(a), (b) and (c) (Law enforcement) and 40(2) (Personal information).
2. The Commissioner's decision is that the Home Office was entitled to rely on sections 31(1)(a), (b) and (c), 23(1) and 40(2) to withhold some of the information specified in the request. However, he finds that most of the static slides and most of the transcript of a speech do not engage any of the cited exemptions.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Disclose the information which the Commissioner has identified does not engage the cited exemptions.
4. The Home Office must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 8 April 2024, the complainant wrote to the Home Office and requested information in the following terms:

“On 12 March 2024, Home Office director of police and public protection technology Katie Gardiner gave a speech at the Home Office Security & Policing event titled: Tackling crime and protecting the public through national digital policing capabilities.

Please provide a copy of this speech and any presentation materials used at the event.”
6. The Home Office responded on 21 May 2024. It disclosed a link to a [factsheet on the police use of facial recognition](#), but said it was refusing the request under section 31(1) of FOIA.
7. The complainant requested an internal review on 18 July 2024, disagreeing with the application of section 31.
8. The Home Office provided the internal review outcome on 19 September 2024. It confirmed its application of sections 31(1)(a), (b) and (c) to refuse the request. It also found that sections 23(1) and 24(1) applied. Finally, it said that section 40(2) applied in respect of the names and identities of serving police officers featured in the withheld material.

Scope of the case

9. The complainant contacted the Commissioner on 22 October 2024 to complain about the way his request for information had been handled. He disagreed with the application of the cited exemptions to refuse his request in its entirety. He believed that some information could be disclosed, with redactions for genuinely exempt material.
10. The analysis below considers the Home Office’s application of the cited exemptions to withhold a PowerPoint presentation and the transcript of the accompanying speech. The Commissioner has viewed the withheld information.

Reasons for decision

11. The withheld information comprises three elements: 10 static slides, five slides containing embedded video and the transcript of the accompanying speech.

12. In its written submissions, the Home Office confirmed to the Commissioner that it was applying sections 31 and 24 to the withheld information in its entirety. It said that sections 23 and 40(2) also applied to specific pieces of information.

Section 31 – Law enforcement

13. The Home Office applied section 31(1)(a), (b) and (c) to all of the withheld information. It has relied on the same reasoning for the citing of each limb of the exemption. The Commissioner recognises that there is an overlap within the limbs of section 31(1) and so he has considered them jointly here.
14. Sections 31(1)(a), (b) and (c) of FOIA state that information is exempt if its disclosure would, or would be likely to, prejudice the following law enforcement activities:
 - (a) the prevention or detection of crime;
 - (b) the apprehension or prosecution of offenders;
 - (c) the administration of justice.
15. When applying section 31, a public authority must be able to identify:
 - the law enforcement interests protected by section 31 which could be harmed by the disclosure;
 - whether the harm that has been identified is real, actual or of substance and what the causal link is between disclosure and that harm; and
 - the level of likelihood of that harm actually occurring: would it occur, or is it only likely to occur?
16. Section 31 is a qualified exemption. Even if the exemption is engaged, the information must be disclosed unless the public interest in maintaining the exemption outweighs the public interest in disclosure.
17. In his internal review request, the complainant argued that the presentation was made in a semi-public forum and the disclosure of the information would inform public debate on a high-profile law enforcement concern.
18. The Home Office emphasised that the event was “closed”, and that attendance was on the basis that the information presented was “shared with a safe and secure industry audience”.

19. The Commissioner notes that the website for the [Security and Policing event](#) says there is no general admittance to the event and that all visitors and exhibitors are subject to Home Office approval.
20. The Home Office said that the withheld information was specifically concerned with the law enforcement work of the police and its use of technology for policing purposes. It said it contained sensitive information about technological capabilities and developments in the law enforcement sector. Its position was:

“Disclosing [the withheld information] would be likely to prejudice the prevention and detection of crime, the apprehension and prosecution of offenders, and the administration of justice, because it would give an insight into both the current technologies (and potential future technologies) which would allow criminals to take steps to alter their behaviours to minimise or avoid detection. This would subsequently have a direct knock-on effect on their apprehension/prosecution, and ultimately justice.”
21. When explaining their application of section 31, the Commissioner expects public authorities to be clear on which sub-section(s) they are relying on and why each sub-section applies.
22. The Commissioner has considered the arguments put forward by the Home Office. He accepts that they relate to the interests protected by sections 31(1)(a), (b) and (c). With respect to the likelihood of harm occurring, he notes that the Home Office considers that harm “would be likely to” occur as a result of disclosure.
23. Having reviewed the slides containing embedded video, he finds that the Home Office has shown a causal link between their disclosure and the harm it has described. He notes that the videos were created for a restricted audience, by police and law enforcement bodies. The Home Office is therefore being asked to disclose information it has obtained from third parties. He further notes that the videos contain descriptions of the operational use of technologies by front line officers which are not in the public domain. They also set out aspirations for technological developments and discuss how new tech might be used for policing purposes. The Commissioner accepts that such information would be of assistance to someone wanting to learn more about police capabilities, for the purpose of circumventing current and future law enforcement tactics. He therefore accepts that the exemptions are engaged in respect of the slides with the embedded videos.
24. However, having reviewed the static slides, the Commissioner is not satisfied that the Home Office has demonstrated a causal link between their disclosure and the harm it has identified. In other words, he is not

satisfied that it has demonstrated that disclosing them would be likely to harm the matters referred to in sections 31(1)(a), (b) or (c).

25. The Commissioner recognises the importance of protecting information which, if disclosed, is capable of undermining criminal law enforcement. However, based on the submissions provided, which predominantly discuss the content of the slides with embedded video, he is not satisfied that the information contained in the static slides is of equivalent sensitivity or that it may lead to similar harm, if it were disclosed.
26. He has reached this view because the content of the static slides is general in nature and it does not reveal detailed information about law enforcement procedures. Additionally, the Commissioner has found that, at the time of the request, it was possible to locate very similar information in the public domain and so it cannot be convincingly argued that harm would be likely to accrue from its disclosure, now.
27. It appears to the Commissioner that sections 31(1)(a), (b) and (c) have been applied in a 'blanket' fashion to withhold all of the slides, when there is no clear justification under those sections for withholding the static slides and the Home Office has not provided clear arguments explaining why.
28. The Commissioner's decision is therefore that the information in the 10 static slides does not engage section 31 and that the Home Office was not entitled to rely on that exemption to withhold them.
29. Having concluded that section 31 is not engaged in respect of the static slides, it has not been necessary to go on to consider the public interest test in respect of them.
30. The Commissioner has reached a similar conclusion regarding much of the transcript of the speech which accompanies the slides. It contains a considerable amount of information which can already be found in the public domain. It also lacks detail in terms of the insight it gives into current and future technological capabilities. As a result, the Commissioner does not agree that its disclosure in response to this request would be likely to have the effects that the Home Office has indicated.
31. However, he does find that a small amount of information discussing points made in one slide would be likely to prejudice the matters described by section 31(1)(a), (b) and (c) as it reveals sensitive information about strategic intentions and development work underway. The Commissioner accepts that this information would likely be of assistance to someone interested in circumventing current and future

law enforcement tactics. The Commissioner has identified this information to the Home Office, separately.

32. Accordingly, the Commissioner has gone on to consider the section 31 public interest balancing test as it applies to the embedded videos and the small amount of information in the transcript.

Public interest test

33. The application of section 31 is subject to a public interest test. The Commissioner has considered whether the balance of the public interest favours maintaining the exemption or disclosing the embedded videos and the small amount of information in the transcript.

Public interest arguments in favour of disclosure

34. The complainant has said:

"I believe that the public interest lies in favour of disclosure for several reasons:

1. **Transparency and accountability:** Disclosure would enhance transparency and allow the public to understand the policies and technologies being implemented in their name. This transparency is crucial for maintaining public trust and accountability, particularly in areas involving significant public interest and concern, such as digital policing and surveillance technologies. The public has a right to know how they are being protected and to be given the information required to assess the proportionality of police powers.
2. **Public debate:** The deployment of national digital policing capabilities and technologies has far-reaching implications for privacy, civil liberties, and human rights. Providing access to the content of the speech and presentation would enable informed public debate on these critical issues, allowing citizens, advocacy groups, and experts to scrutinise, discuss, and influence policy decisions.
3. **Nature of requested materials:** The information requested pertains to a speech and presentation made in a semi-public forum. This context suggests that the material was intended for a broad audience, which weakens the argument that its disclosure would compromise law enforcement operations. It is reasonable for the public to expect access to material which has already been presented to selected private sector suppliers and security professionals.

4. **Limited risk associated with disclosure:** It is unclear from the refusal notice how disclosure would prejudice, or be likely to prejudice, the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice. I contend that disclosure of the requested material is unlikely to prejudice law enforcement to a degree that outweighs the benefits of transparency and public accountability."

35. The Home Office acknowledged that disclosing the requested information would serve the interests of openness and transparency on national digital policing capabilities, and may help provide reassurance to the public, and increase confidence (and trust) with the Home Office and the police.

Public interest arguments in favour of maintaining the exemption

36. The Home Office argued:

"Information relating to the design and usage of systems that are used for law enforcement and policing purposes are, by their nature, sensitive.

The information covered by section 31 is predominantly provided by third party police officers talking about technology in field operations. This information was never meant to be in the public domain and that information was attained on the basis that it be used only for internal occasions and for the closed security and policing event (a closed safe and secure industry event).

We have also applied section 31 to cover the sensitive nature of our relationship with various policing and law enforcement organisations. A number of the videos embedded within the presentation contain videos of Chief Constables and other police officers talking about the relationship with the Home Office, and the development of new technologies and field operations. The products also include the workings of Police Technologies and the development of new capabilities. These were again filmed under the caveat that they be only used for internal occasions and the security and policing event. On this basis it is considered that the exemption should be protected.

Disclosing detailed information about the use of technology would provide a real insight into the nature and scope of technology services used by the police and their partners – both now and in the near future. This would allow criminals to potentially remain one-step-ahead of the authorities as they could alter their behaviour or take different steps to avoid detection. It could also expose the public (and

police officers themselves) to increased (and unnecessary) levels of risk. Releasing information which would increase the prospect of criminals (or other bad faith actors) from circumventing the law is not in the wider public interest.

We also argue that disclosure of this information would be likely to undermine the department's ability to deliver its operational policing and security remit which would not be in the public interest."

Balance of the public interest

37. The Commissioner recognises that it is important for the general public to have confidence in the UK's law enforcement capabilities. Accordingly, there is a general public interest in disclosing information that promotes accountability and transparency which must always be given some weight in the public interest test. In particular, the complainant has argued that there is a public interest in disclosing information about law enforcement technologies which have implications for personal privacy. The Commissioner recognises that, in this case, disclosure of the videos and the specified text would provide some, general, information to the public about the nature and use of the technologies used by the police and their partners – both now and in the near future.
38. However, the Commissioner also recognises that there is a very strong public interest in protecting the law enforcement capabilities of public authorities. The Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption – that is, the public interest in avoiding prejudice to the prevention or detection of crime, the apprehension or prosecution of offenders and the administration of justice. As set out above, he is satisfied that harm to these matters would be likely to occur if the information was made public. Clearly, it is not in the public interest to disclose information that could compromise the police's ability to accomplish its core functions of law enforcement and protecting the public
39. The Commissioner also recognises that, as end users, it is in the public interest that law enforcement bodies are able to have free and frank exchanges with potential suppliers about their current use of technologies and what they would like from future technological developments, without this being shared with a wider audience. Such exchanges will allow for law enforcement needs to be designed into product development, which will be of benefit to effective law enforcement, and the better protection of the wider public.
40. The Commissioner also recognises that the police and other agencies need to have confidence that sensitive information they provide to the Home Office, for particular, pre-defined purposes, will not be more

widely disclosed under FOIA without proper justification. In this case, he finds that the general public interest in transparency and accountability is insufficient justification. It is not in the public interest to share, in the interests of transparency, information which might undermine or reduce the effectiveness of law enforcement processes, and by so doing, place the public at increased risk of harm.

41. Having considered the opposing public interest factors in this case, and while he accepts that disclosing the withheld information would inform the general public debate on law enforcement technology, the Commissioner has concluded that the extent to which it would do so is disproportionate to the likely harms identified above. Therefore, the factors in favour of disclosure do not equal or outweigh those in favour of maintaining the exemption. Accordingly, the Commissioner is satisfied that sections 31(1)(a), (b) and (c) of FOIA were appropriately applied to withhold the videos embedded in the slides and a small part of the transcript of the speech.

Section 23 – Information supplied by, or relating to, bodies dealing with security matters

42. The Home Office said that it was applying section 23(1) of FOIA to withhold a very small amount of information.

43. Section 23(1) of FOIA states:

“Information held by a public authority 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).”

44. To successfully engage the exemption at section 23(1), a public authority needs only to demonstrate that the relevant information was directly or indirectly supplied to it by, or that it relates to, any of the bodies listed at [section 23\(3\)](#) of FOIA. There is no requirement to show that disclosing the requested information would result in harm or to consider whether there is a public interest in disclosure.
45. The Home Office has cited section 23(1) to withhold a small amount of information in the static slides and in the speech transcript, which it said relates to a body or bodies listed at section 23(3).
46. Having viewed the information in question, the Commissioner is satisfied that the information does relate to a body or bodies listed at section 23(3). He is therefore satisfied that section 23(1) is properly engaged and that the Home Office was entitled to rely on it to withhold the information in question.

Section 40 – Personal information

47. The Home Office applied section 40(2) of FOIA to withhold two of the slides with embedded videos, on the grounds that they are the personal data of the police officers who appear in them. It identified them to the Commissioner as slides 10 and 12 of the PowerPoint display.
48. Although the Commissioner has already found that all the slides with embedded videos are exempt under section 31, for completeness he will consider whether the exemption at section 40(2) also applies in respect of slides 10 and 12. He has also extended this consideration to the names of the officers where they are referred to in the transcript.
49. Section 40(2) of FOIA provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in section 40(3A)(3B) or 40(4A) is satisfied.
50. In this case the relevant condition is contained in section 40(3A)(a). This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR').
51. The first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of FOIA cannot apply.
52. Secondly, and only if the Commissioner is satisfied that the requested information is personal data, he must establish whether disclosure of that data would breach any of the DP principles.

Is the information personal data?

53. Section 3(2) of the DPA defines personal data as:

"any information relating to an identified or identifiable living individual".

54. The two main elements of personal data are that the information must relate to a living person and that the person must be identifiable.
55. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

56. Information will relate to a person if it is about them, linked to them, has biographical significance for them, is used to inform decisions affecting them or has them as its main focus.
57. Each of the videos contained short presentations by serving police officers. Two of the videos featured police officers of relatively junior ranks, talking about their law enforcement experiences. Their names were displayed and they were also referred to by name in the transcript of the accompanying speech.
58. The Commissioner is satisfied that a person's name and a visual image of them is information which relates to them and from which they can be identified.
59. Therefore, this information falls within the definition of 'personal data' in section 3(2) of the DPA.
60. The fact that information constitutes personal data does not automatically exclude it from disclosure under FOIA. The second element of the test is to determine whether disclosure would contravene any of the DP principles.
61. The most relevant DP principle in this case is principle (a).

Would disclosure contravene principle (a)?

62. Article 5(1)(a) of the UK GDPR states that:

"Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject".

63. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if to do so would be lawful, fair and transparent.
64. In order to be lawful, one of the lawful bases listed in Article 6(1) of the UK GDPR must apply to the processing. It must also be generally lawful.

Lawful processing: Article 6(1)(f) of the UK GDPR

65. The Commissioner considers that the lawful basis most applicable is basis 6(1)(f), which states:

"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child".

66. When considering the application of Article 6(1)(f) of the UK GDPR in the context of a request for information under FOIA, it is necessary to consider the following three-part test:-

i. **Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;

ii. **Necessity test:** Whether disclosure of the information is necessary to meet the legitimate interest in question;

iii. **Balancing test:** Whether the above interests override the legitimate interest(s) or fundamental rights and freedoms of the data subject.

Legitimate interests

67. When considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case specific interests.

68. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.

69. The Home Office said that it had not identified any legitimate interests that might be served by disclosing the information.

70. However, as set out in his section 31 analysis, the Commissioner accepts that a legitimate interest in transparency is being pursued in the request (although he also accepts that the identity of the officers concerned is likely to be largely irrelevant to the complainant).

Is disclosure necessary?

71. 'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.

72. The Commissioner's section 31 analysis noted that the information did not already appear in the public domain and he is unaware of any other route through which the information may be obtained.

73. The Commissioner is, therefore, satisfied in this case that there are no less intrusive means of achieving the legitimate aims identified.

Balance between legitimate interests and the data subjects' interests or fundamental rights and freedoms

74. It is necessary to balance the legitimate interests in disclosure against the data subjects' interests or fundamental rights and freedoms. In doing so, it is necessary to consider the impact of disclosure. For example, if the data subject would not reasonably expect that their information would be disclosed to the public under FOIA in response to the request, or if such disclosure would cause unjustified harm, their interests or rights are likely to override legitimate interests in disclosure.
75. In the Commissioner's view, a key issue is whether the data subjects concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as their general expectation of privacy, whether the information relates to them in their professional role or to them as individuals, and the purpose for which they provided their personal data. It is also important to consider whether disclosure would be likely to result in unwarranted damage or distress to the data subjects.
76. The Home Office said:
- "The police officers had a legitimate expectation that their personal information would only be disclosed to a restricted audience of security professionals. They had no expectation that it would be released in response to an FOI request, and we do not believe there is a legitimate interest in release of this information. We believe that not only would it be a breach of trust and reputationally damaging for the Home Office if their personal information in the footage was released but that it would breach the first data protection principle, since it would be unlawful and unfair to disclose the information. There is also a concern that it could place those officers at risk of harm."
77. The Commissioner is satisfied that the officers' understanding was that the videos were meant for a restricted audience, at a particular event. He accepts that they had a reasonable expectation that their information would not be shared more widely or on an unrestricted basis. Disclosure under FOIA is considered as being to 'the world at large' and he has no difficulty accepting that, as non-senior, serving police officers, they would likely find such a disclosure personally intrusive and distressing. He also accepts that there is a realistic possibility of them being put at risk of harm if their identities as serving police officers, and their physical images, are shared on an unrestricted basis.

78. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
79. Given the above conclusion that disclosure would be unlawful, the Commissioner considers that he does not need to go on to separately consider whether disclosure would be fair or transparent.
80. The Home Office was therefore entitled to apply section 40(2) to withhold slides 10 and 12, with embedded videos of junior officers, and also their names where they appear in the transcript of the accompanying speech.

Section 24 – National security

81. The Home Office argued that, in addition to section 31, all of the withheld information engaged section 24. The Commissioner has therefore considered whether that exemption provides grounds for withholding the information which he has determined is not already exempt under the other cited exemptions (ie the majority of the static slides and the majority of the transcript).
82. Section 24(1) states:

“Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security”.
83. FOIA does not define the term ‘national security’. However, the Information Tribunal has summarised it as follows:
 - ‘national security’ means the security of the United Kingdom and its people;
 - the interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people;
 - the protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence;
 - action against a foreign state may be capable indirectly of affecting the security of the UK; and,

- reciprocal co-operation between the UK and other states in combating international terrorism is capable of promoting the United Kingdom's national security.

84. Furthermore, in this context the Commissioner interprets 'required for the purposes of' to mean 'reasonably necessary'. Although there has to be a real possibility that disclosure of the requested information would undermine national security, the impact does not need to be direct or immediate.

85. The Home Office argued that disclosing the information in the slides would reveal sensitive information on policing and security technologies that is not in the public domain. It said:

"Due to the very nature of their work, it is widely accepted that there is often a close and inter-connected relationship between police services (section 31) and their partners who work to protect national security (section 24). The reason we are also relying upon section 24 is because although the withheld information primarily relates to the policing context, such information could (and does) just as importantly, play a critical role in protecting the public more generally against wider threats such as those associated with terrorism, as much as it does from crime.

The Police work closely with other law enforcement and partner agencies and therefore, any disclosure of technologies could not only have a detrimental effect on the work of the police but also potentially effect [sic] the work of their partners in the national security context".

86. The Home Office has essentially applied the same reasoning for applying section 24 as it used for section 31. It follows that the Commissioner's decision on the application of section 24, and his reasoning, is the same as that set out in respect of section 31. Having specific regard to the fact that the static slides contain quite general information on law enforcement and that he has found that very similar information to it is already in the public domain, the Commissioner is not satisfied that the Home Office has shown that withholding the static slides is necessary for the purposes of safeguarding national security, and it is not otherwise evident.

87. Therefore, the Commissioner's decision is that the information which is not otherwise exempt under the other cited exemptions, does not engage section 24 and the Home Office was not entitled to rely on that exemption to withhold it.

88. The Home Office must now take the steps specified in paragraph 3 to ensure compliance with the legislation.

Right of appeal

89. 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)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

90. 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.
91. 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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