

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 November 2022

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

Decision (including any steps ordered)

1. The complainant requested information about CCTV cameras in operation at specified Immigration Removal Centres. The Home Office refused to provide the requested information citing section 31(1)(f) of FOIA (the exemption for the maintenance and security and good order in prisons or in other institutions where persons are lawfully detained).
2. The Commissioner's decision is that the Home Office was entitled to rely on section 31(1)(f) and that the balance of the public interest favours maintaining this exemption.
3. No steps are required as a result of this notice.

Request and response

4. On 5 April 2022, the complainant wrote to the Home Office and requested information in the following terms:

"...I would like the Home Office to specify whether Hikvision or Dahua CCTV cameras or a combination of both are in operation at each of the IRCs [Immigration Removal Centres] listed. I would like to know for each IRC which cameras are in operation - meaning that if just one of the manufacturers (Dahua or Hikvision) is operational on one specific site, I would like to know which one".
5. The Home Office responded on 20 April 2022. It refused to provide the requested information citing section 31(1)(f) of FOIA.

6. The complainant requested an internal review on 25 April 2022, which the Home Office provided, late, on 11 July 2022. It maintained its original position.

Reasons for decision

Section 31 – law enforcement

7. Section 31 of FOIA creates an exemption from the right to know if releasing the information would, or would be likely to, prejudice one or more of a range of law enforcement activities. Section 31 can be claimed by any public authority, not just those with law enforcement functions.
8. Section 31(1)(f) states:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice-

(f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained”.
9. The Home Office said that releasing the make and model of CCTV used in the IRCs would provide individuals with information on the security deployed and the systems used within each IRC. It contended that putting information about building security systems in the public domain, such as camera capabilities and limitations, may leave that system vulnerable to being compromised. The Home Office argued that this would make it easier for individuals to circumvent security and would substantially prejudice the operation of the immigration removal estate.
10. The Commissioner notes that the Home Office has used both ‘would’ and ‘may’ in its arguments set out above. He has considered the available evidence and is satisfied that disclosure of the requested information would at least be likely to prejudice the maintenance of security and good order. He therefore finds that section 31(1)(f) has been correctly applied.

Public interest test

11. Section 31 is subject to the public interest test, as set out in section 2 of FOIA. This means that although section 31 is engaged, the requested information should be disclosed unless the public interest in maintaining the exemption outweighs the public interest in disclosure.

Public interest in favour of disclosure

12. The complainant disputed the Home Office's position with the crux of his complaint being that he believes that revealing the manufacturers of the cameras would pose minimal security risk and that the public need to be able to make informed decisions about the effectiveness of the government's ability to maintain security.
13. In favour of disclosing the requested information, the Home Office acknowledged:

"There is a public interest in disclosing the information to you as it will increase the transparency of the work of the Home Office. There is also a public interest in ensuring public confidence in the security of the United Kingdom's immigration removal estate."

Public interest in favour of maintaining the exemption

14. Against disclosure, the Home Office argued that:

"In this instance there are also specific considerations in favour of maintaining the exemption in order to ensure the integrity of the United Kingdom's immigration removal estate. If this information were to be disclosed, it could substantially prejudice the operation of the immigration removal estate. This is because disclosure may enable individuals to obtain information on the security procedures deployed and the systems used within each immigration removal centre. This has the potential to compromise the integrity of the security at the facility contrary to the statutory purpose of such a facility, under the Detention Centre Rules 2001 (Rule 3) in 'maintaining a safe and secure environment'. Identifying the manufacturer of the cameras used at the centre may result in an individual being able to circumvent the necessary security arrangements. This is clearly not in the public interest."

Balance of the public interest

15. The Commissioner accepts that there is a presumption running through FOIA that openness is, in itself, to be regarded as something which is in the public interest.
16. As well as the general public interest in transparency, which is always an argument for disclosure, the Commissioner acknowledges the legitimate public interest in the subject the information in this case relates to, namely safety and security in the IRCs.

17. The Commissioner accepts the argument that disclosure could inform debate and improve the public's confidence in the security of the UK's immigration removal estate.
18. However, the Commissioner considers that appropriate weight must be afforded to the public interest inherent in the exemption - that is, the public interest in avoiding likely prejudice to the maintenance of security and good order in prisons.
19. The Commissioner considers it clear that there is a very substantial public interest in avoiding that outcome and that this is a public interest factor of considerable weight in favour of maintenance of the exemption.
20. Having taken the above into account, the Commissioner is satisfied that, in the particular circumstances of this case, the public interest in maintaining the exemption outweighs that in disclosing the requested information.

Other matters

21. Although the complainant did not complain about the late internal review in this case, (the recommended timescale being 20 working days in which to complete such a review) the Commissioner has made a record of the delay.

Right of appeal

22. 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

23. 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.
24. 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

Laura Tomkinson
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