

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 December 2020

Public Authority: Department for Transport
Address: Great Minister House
33 Horseferry Road
London
SW1P 4DR

Decision (including any steps ordered)

1. The complainant has requested the Department for Transport (DfT) to disclose meetings and correspondence between ministers and/or senior civil servants and Carnival UK for the period 1 March to 9 October 2019. The DfT refused to confirm or deny whether it holds recorded information in accordance with section 24(2) of the FOIA.
2. The Commissioner's decision is that the DfT is entitled to refuse to confirm or deny whether it holds recorded information in accordance with section 24(2) of the FOIA. She does not therefore require any further action to be taken.

Request and response

3. On 9 October 2020, the complainant wrote to the DfT and requested information in the following terms:

"Under the Freedom of Information Act 2000, I would like to request information relating to meetings between Carnival UK and the government.

Please could you tell me what meetings and correspondence there have been between Ministers and/or Senior civil servants (Grade 5 or above) and employees from Carnival UK between January 1 and October 9, 2019.

In respect of each meeting, please provide the following details:

- The dates of the meetings
 - Who participated in the meeting (Names, and/or position/rank)
 - Minutes from the meeting(s)
 - Correspondence between the parties"
4. The DfT responded on 30 October 2019. It stated that as the complainant had already requested this information for the time period between 1 January and 1 March 2019 and it had already responded, it would not consider this timeframe as part of this request. For the remainder (1 March to 9 October 2019) the DfT refused to confirm or deny whether it holds the information requested under section 24(2) of the FOIA. It reminded the complainant that such a response should not be taken as conclusive evidence that the information requested exists or does not exist.
 5. The complainant requested an internal review on 4 November 2019. It stated that he failed to see how interactions between a cruise company and the DfT falls within the definition of national security.
 6. The DfT carried out an internal review and notified the complainant of its findings on 3 December 2019. It upheld its previous application of section 24(2) of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 3 December 2019 to complain about the way his request for information had been handled. He stated that he could not understand the DfT's decision given that he had made a previous request for the same information, just a different timeframe, and the DfT had confirmed the existence of information it holds. He also stated that in his opinion a cruise company should have nothing to do with national security.
8. The complainant agreed with the DfT's approach of limiting this request to the time period 1 March to 9 October 2019 (as the timeframe 1 January to 1 March 2019 is currently being addressed in another complaint to the Commissioner). The Commissioner's investigation has also followed this approach. She considers the scope of this investigation to therefore be to determine whether the DfT is entitled to refuse to confirm or deny whether it holds the requested information for the time period 1 March to 9 October 2019 under section 24(2) of the FOIA.

Reasons for decision

Section 24 – National Security

9. Section 24(1) states that information is exempt information if exemption from section 1(1)(b) (disclosing the recorded information it holds) is required for the purpose of safeguarding national security.
10. Subsection (2) states that the duty to confirm or deny does not arise if, or to the extent that, exemption from section 1(1)(a) (confirming whether or not recorded information is held) is required for the purposes of safeguarding national security.
11. The DfT has provided submissions to the Commissioner. She has considered these and she is satisfied that the DfT is entitled to refuse to confirm or deny whether any recorded information is held in accordance with section 24(2) of the FOIA.
12. In terms of the public interest test, the DfT stated that it recognised the public interest in confirming or denying whether any recorded information is held (and if it is (and it is not stating that it is) in disclosure), as this would promote transparency and accountability and also enable the public to potentially scrutinise any actions (if indeed any actions have taken place) taken by the department.
13. However, overall the DfT considered the public interest rested in maintaining the exemption. It stated that it felt confirming or denying whether recorded information is held would be likely to render certain national security measures less effective, particularly within the maritime sector. It argued that this would lead to the compromise of ongoing operations to protect the security of infrastructure of the UK and increase risk of harm to the public. It went on to say that in the age of global terrorism and organised crime, it is essential that it considers whether confirming or denying information is held would be likely to leave the UK, or UK flagged vessels, vulnerable to maritime threats and risks. For these reasons it therefore concluded that the public interest in favour of confirmation or denial is outweighed by the public interest in maintaining the application of section 24(2) of the FOIA.
14. Again the Commissioner has considered the submissions she has received from the DfT and she is satisfied that the public interest in favour of confirmation or denial is outweighed by the public interest in maintaining the application of section 24(2).

Right of Appeal

15. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF