

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 April 2025

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

Decision (including any steps ordered)

1. The complainant has requested information connected to, or generated by, the former Prime Minister Boris Johnson's trip to Kyiv in April 2022.
2. The Commissioner's decision is that the Cabinet Office ("the public authority") is entitled to withhold the requested information on the basis of the following exemption(s):
 - Section 23(1), information supplied by, or relating to, bodies dealing with security matters, or section 24(1), national security, in the alternative.
3. The Commissioner does not require further steps.

Request and response

4. On 9 October 2023, the complainant wrote to the public authority and requested information in the following terms:

" I would like to request more details on Boris's briefing notes going into the unannounced 9 April 2022 trip.

I would be grateful if you could provide me with the following information:

- All briefing notes prepared for Mr Johnson in advance of the trip,
 - All meeting notes and transcripts of speeches made’.”
5. On 2 November 2023, the complainant clarified that her request was for:
- [1] The transcript of the speeches and briefing notes prepared in advance of Boris Johnson's visit to Kyiv on April 9th, 2022 — for the trip.
 - [2] All meeting notes and transcripts of speeches made by Mr. Johnson while he was in Ukraine on April 9th, 2022, including his meeting with President Zelenskyy.’
6. The requests above have been re-numbered 1 and 2 for the purposes of this decision notice.
7. The public authority responded on 8 December 2023 and advised that it held information within the scope of the request. However, it considered that the information was exempt from disclosure under the following provisions of the Act:
- section 23(1) (security bodies);
 - (in the alternative to section 23(1)), section 24(1) (national security);
 - section 26(1) (defence);
 - section 27(1)(a) and (2) (international relations);
 - section 35(1)(a) (policy formulation or development); and
 - section 40(2) (personal data).
8. As regards its section 16 obligations (to provide advice and assistance to a requester), the public authority directed the complainant to remarks and comments made by Boris Johnson regarding his trip to Kyiv.
9. The complainant sought an internal review on 13 December 2023. The public authority provided a response on 8 March 2024, determining that its original response was correct.

Scope of the case

10. The complainant contacted the Commissioner on 13 March 2024 to complain about the way her request for information had been handled.

11. During the course of the Commissioner's investigation, on 27 February 2025, the public authority informed him that it also relied on section 35(1)(b) (Ministerial communications) to withhold some of the requested information.
12. The Commissioner considers that the scope of his investigation is to determine whether the public authority correctly applied FOIA when withholding requested information.

Reasons for decision

13. The public authority withholds the requested information on (amongst others) the basis of sections 23(1) and 24(1), cited in the alternative.

Public Authority Submissions

14. In its reply to the complainant dated 8 December 2023 the public authority said as follows.

"Sections 23(1) and 24(1) are being cited in the alternative as it is not appropriate, in the circumstances of the case, to say which of the two exemptions is actually engaged so as not to undermine national security or reveal the extent of any involvement, or not, of the bodies dealing with security matters.

Section 23 is an absolute exemption and the Cabinet Office is not required to consider whether the public interest favours disclosure of this information. Any information that is not exempt from disclosure under section 23(1) could be exempt under section 24(1) of the Freedom of Information Act, which exempts information, if it is held, from disclosure if its exemption is required for the purpose of safeguarding national security.

For the reasons given above, we cannot say which of the two exemptions is actually engaged, and to the extent to which section 24(1) is engaged we are not obliged to give any further explanation by virtue of section 17(4) because to do so would involve the disclosure of information which would itself be exempt".

15. In addition to the above, the public authority provided further submissions to the Commissioner dated 26 September 2024. The Commissioner cannot relay these submissions here, as to do so, would reveal content of the withheld information.

Complainant's Submissions

16. Section 24(1) of FOIA deals with safeguarding national security. In April 2022, Britain's own national security was not at risk and Ukraine is not a NATO ally. The complainant therefore did not consider the public authority's use of section 24 as credible.
17. Regarding section 23(1), the complainant was not requesting information from intelligence agencies. She was seeking information in 10 Downing Street preparatory meeting documents, prepared by the Prime Minister's private office.
18. The amount of taxpayer money that has been sent to Ukraine, are such that providing the information requested is in the public interest.

Commissioner's Reasonings

19. The Commissioner has viewed and considered the withheld information and taken cognisance of the parties' submissions.
20. Section 23(1) of FOIA provides an exemption which states that: "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)."
21. 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 relates to, any of the bodies listed at section 23(3)1 .
22. Section 24(1) states that: "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".
23. FOIA does not define the term 'national security'. However, in *Norman Baker v the Information Commissioner and the Cabinet Office* (EA/2006/0045 4 April 2007) the Information Tribunal was guided by a House of Lords case, *Secretary of State for the Home Department v Rehman* [2001] UKHL 47, concerning whether the risk posed by a foreign national provided grounds for his deportation.
24. The Information Tribunal summarised the Lords' observations 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.
25. Furthermore, in this context the Commissioner interprets 'required for the purpose of' to mean 'reasonably necessary'. Although there has to be a real possibility that the disclosure of requested information would undermine national security, the impact does not need to be direct or immediate.
26. As is clear from the wording of section 24(1), the exemptions provided by sections 23(1) and 24(1) are mutually exclusive. This means they cannot be applied to the same information.
27. However, the Commissioner recognises that the fact that section 24(1) can only be applied to information that is not protected by section 23(1) can present a problem if a public authority does not want to reveal whether or not a section 23 security body is involved in an issue. To overcome this problem, the Commissioner will allow public authorities to cite both exemptions 'in the alternative' when necessary. This means that although only one of the two exemptions can actually be engaged, the public authority may refer to both exemptions in its refusal notice.
28. As the Commissioner's guidance¹ on this issue explains, a decision notice which upholds the public authority's position will not allude to which exemption has actually been engaged. It will simply say that the Commissioner is satisfied that one of the two exemptions cited is engaged and that, if the exemption is section 24(1), the public interest favours withholding the information. The approach of applying these exemptions in the alternative has been accepted by the Upper Tribunal.²
29. Based on the submissions provided to him by the public authority during the course of his investigation, the Commissioner is satisfied that the requested information either falls within the scope of the exemption provided by section 23(1) of FOIA or falls within the scope of the

¹ [How sections 23 and 24 interact | ICO](#)

² [Dr Andrew Lownie v The Information Commissioner & Anor. - Find Case Law - The National Archives](#)

exemption provided by section 24(1) of FOIA, and that if the exemption engaged is section 24(1) then the public interest favours maintaining the exemption. That is, the public interest in protecting UK national security would, or does, outweigh the public interest in disclosure.

30. The Commissioner cannot elaborate on his rationale behind this finding without compromising the content of the withheld information itself or by revealing which of these two exemptions is actually engaged.
31. The Commissioner is conscious that this approach and limited analysis is likely to prove frustrating to the complainant. However, for reasons set above he cannot provide further details to explain this particular part of his decision. He also notes that such an approach in this case is consistent with that of other similar decision notices where sections 23(1) and 24(1) of FOIA have been applied in the alternative.
32. The Commissioner's decision is therefore that the public authority was entitled to rely on sections 23(1) and 24(1) in the alternative, to refuse the request. Having found this, the Commissioner need not and did not consider the applicability of the other exemptions relied upon.

Other Matters

33. Internal reviews are not subject to statutory timescales. However, the Commissioner's guidance to public authorities is clear and well established, in that he expects most internal reviews to be provided within 20 working days, with a maximum of 40 working days in certain circumstances, unless there are legitimate reasons why a longer extension is necessary.
34. In this case, the Cabinet Office took more than 60 working days to provide the internal review. The Commissioner considers that the time taken to provide the internal review was unduly excessive.

Right of appeal

35. 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

36. 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.
37. 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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