

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 April 2025

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

Decision (including any steps ordered)

1. The complainant has requested information relating to the UK's Migration and Economic Development Partnership (MEDP) with Rwanda. The Home Office refused to disclose the requested information, on the basis of sections 27(1) and 43(2) of FOIA (the exemptions for international relations and commercial interests, respectively).
2. The Commissioner's decision is that the Home Office was entitled to rely on section 27(1) to withhold the information.
3. The Commissioner doesn't require any steps to be taken in response to this decision notice.

Request and response

4. On 24 April 2024, the complainant wrote to the Home Office and requested information in the below terms (the request followed an earlier disclosure of some information by the Home Office):

"Please can you specify:

*If the money paid has actually been spent

*If a more granular breakdown is not 'currently' held by the Home Office, where is the information held and when might it be available?"

5. The Home Office responded on 3 June 2024 and stated that the information requested was exempt from disclosure under sections 27(1) and 43(2) of FOIA.
6. On 11 July 2024, the Home Office upheld its original decision at internal review.

Scope of the case

7. The complainant contacted the Commissioner on 25 October 2024 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of this case is to decide whether the Home Office was entitled to withhold the requested information under the exemption(s) it has cited. He'll begin with section 27(1).

Background information

9. The Home Office explained that, under the MEDP, the previous government agreed to make fixed payments into an Economic Transformation and Integration Fund (ETIF) for the first five years of the partnership. The payments were intended to support economic development in Rwanda, and were independent of the number of people relocated there. In addition to those payments, the Home Office said, the previous government agreed to make payments to Rwanda to cover the asylum processing and operational costs for each person relocated.
10. The Home Office also explained that the current government has announced an end to the MEDP; and is repealing the Safety of Rwanda (Asylum and Immigration) Act 2024 through the Border Security, Asylum and Immigration Bill (introduced to Parliament but yet to receive royal assent).

Reasons for decision

Section 27(1)

11. The Home Office has confirmed to the Commissioner that it's withholding information under sub-sections (a), (c) and (d) of section 27(1).
12. These provide that information is exempt from disclosure under FOIA if its disclosure would, or would be likely to, prejudice:

 “(a) relations between the United Kingdom and any other State ...

 (c) the interests of the United Kingdom abroad, or

 (d) the promotion or protection by the United Kingdom of its interests abroad.”
13. The exemption, if engaged, is subject to a public interest test.
14. Section 27 is a prejudice-based exemption, and its engagement involves a number of considerations:
 - Whether the envisaged harm is one which section 27 is designed to protect.
 - Whether the public authority can demonstrate a causal link between the disclosure and the harm. The harm must be real, actual or of substance, e.g. if the harm makes international relations more difficult or calls for a particular diplomatic damage limitation exercise. A public authority doesn't necessarily have to demonstrate quantifiable loss or damage.
 - What the likelihood of the harm actually occurring is (i.e. 'would' or 'would be likely to'). In this context, 'would' means it's more probable than not; 'would be likely to' is a lower threshold, where there must be a real and significant risk, even if the risk is less than 50%.
15. The complainant has argued:

 “The figures requested should already be known to both parties and reflect a one-off arrangement which was, in any event, discontinued, with the decision taken in the public eye ... it cannot be sustained that

disclosure would harm UK interests ... the unusual nature of the partnership would make it highly unlikely ... an immigration partnership with Rwanda, would happen again”.

16. In its submissions to the Commissioner, the Home Office provided comments relating to each of the three sub-sections of section 27(1) that it's relying on.
17. The Commissioner considers that there's some ambiguity as to the level of likelihood that the Home Office is claiming. Initially the Home Office's submissions stated that, for all three sub-sections, the Home Office is claiming the higher level (i.e. that the harm in question 'would' occur); but the Commissioner notes that later (when considering the public interest test) they also referred to the lower level ('would be likely to').
18. For section 27(1)(a), the Home Office argued that negotiations took place in confidence, that the requested 'breakdown' of MEDP finances should remain confidential, and that disclosure would undermine trust and confidence between the UK and the government of Rwanda.
19. For section 27(1)(c), it argued:

“Tackling irregular migration is a flagship policy for the UK government and one which requires support of international partners. Disclosing the information would negatively impact the UK's standing in the public arena and will foster a negative perception in how the UK collaborates with international partners”.
20. For section 27(1)(d), it argued that the UK continues to work with a range of international partners on issues related to migration, and expressed its concern about other countries being “less likely to engage with the UK if sensitive information is disclosed to the public without the agreement of their international counterparts”.

Is the exemption engaged?

21. The Commissioner accepts that the types of harm envisaged by the Home Office are ones that sections 27(1)(a), (c) and (d) are designed to protect.
22. He also accepts that the harms are real, actual or of substance, and that there's a causal link between disclosure and the harms described.

23. Given that overall there's a degree of ambiguity in the Home Office's submissions as to the level of likelihood being claimed, the Commissioner has considered the lower threshold. He's prepared to accept that there's a real and significant risk (more than just a hypothetical one) of disclosure resulting in the envisaged harms.
24. He's therefore satisfied that sections 27(1)(a), (c) and (d) are engaged.

Public interest test

25. The complainant considers that "there is overwhelming public interest in providing data pertaining [sic] a vast waste in UK public money", and that the Home Office was wrong to find that the public interest favoured maintaining the exemption.
26. The Home Office recognised the public interest in transparency and accountability, and in furthering public understanding of the issues that public authorities deal with. It said that disclosure could improve public understanding of the MEDP.
27. However, against disclosure, the Home Office said there's a public interest in withholding the requested information to protect good government, by preserving a safe space for negotiations relating to commercially sensitive arrangements; the Home Office also emphasised the importance of maintaining trust and confidence between governments, and the UK's relationships with other governments.
28. The Home Office also considers that other, related information already in the public domain reduces the public interest in disclosure of the withheld information. The Home Office directed the Commissioner to published information about the first ETIF payment¹ (see e.g. "Q93" on page 22 of that document); and regarding the costs of the MEDP, a report by the National Audit Office² and breakdown on www.gov.uk³.

Commissioner's position

¹ <https://committees.parliament.uk/oralevidence/14018/pdf/>

² <https://www.nao.org.uk/reports/investigation-into-the-costs-of-the-uk-rwanda-partnership/?nab=0>

³ <https://www.gov.uk/government/publications/medp-with-rwanda-and-the-illegal-migration-act-associated-costs/breakdown-of-home-office-costs-associated-with-the-medp-with-rwanda-and-the-illegal-migration-act-2023>

29. The Commissioner acknowledges the complainant's comments about the amount of money involved in the MEDP. He also acknowledges that migration was an important and sensitive topic at the time of the request (and continues to be), with a lot of public debate relating to it.
30. He recognises the factors that the Home Office listed, in favour of disclosure, including transparency, accountability and improving public understanding of the MEDP.
31. His guidance on the balance of the public interest for section 27(1)⁴ notes that factors favouring disclosure may include furthering the understanding of, and participation in the public debate of issues of the day; promoting accountability and transparency in how public money is spent; helping individuals understand decisions made by public authorities which affect their lives; and informing the public about measures, procedures, arrangements and associated discussions concerning public protection. All of those factors seem relevant in this instance.
32. However, he also recognises that there's a significant and weighty public interest in the UK maintaining trust, confidence and its relationships with other governments.
33. He also takes the Home Office's point that certain information already exists in the public domain (even if the complainant wants further detail), and agrees that it goes some way towards satisfying the public interest in disclosure.
34. The Commissioner finds that on balance, the public interest favours maintaining sections 27(1)(a), (c) and (d).
35. Given that conclusion, he hasn't gone on to consider section 43 of FOIA.

⁴ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-27-international-relations/#balance>

Right of appeal

36. 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

37. 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.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Esi Mensah
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