



Foreign &
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Office

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04 November 2015

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0557-15

Thank you for your email of 12 June asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

'Please provide me with a copy of all documents contained within "Folder 1: Rendition Timeline", and "Folder 35: Gibson Inquiry: Parliamentary Questions FCO Written Answers 2001-2008".

Details of both folders are set out in your letter to me of 4 June 2015 (regarding request ref. 0441-15).

Where possible, please provide me with electronic copies of all documents.'

I am writing to confirm that we have now completed the search for the information which you requested. Please accept our apologies for the delay in responding fully. This was because of the volume of documents covered and consultations on the exemptions and application of the public interest test.

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request.

I must inform you that the FCO is withholding some of the information you requested under exemption Section 21 - Information accessible by other means. Details of this information, with links to open sources, are included in Annex A.

Some of the information you have requested is being withheld under exemption Section 23(1) - Information supplied by, or relating to, bodies dealing with security matters. Section 23 is an absolute exemption and therefore we are not obliged to consider the public interest in disclosure.

Some of the information you have requested is being withheld under exemption Section 27(1)(a) – International relations. Section 27(1)(a) recognises the need to protect information that would be likely to prejudice relations between the United Kingdom and other states if it was disclosed. In this case the release of information relating to your request above could harm relations with the US.

The application of Section 27 requires us to consider public interest test arguments in favour of releasing and withholding the information. We acknowledge that releasing information on this issue would increase public knowledge about our relations with the US but Section 27

recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered. The disclosure of information detailing our relationship with the US government could potentially damage the bilateral relationship between the UK and the US. This would reduce the UK Government's ability to protect and promote UK interests through its relations with the US, which would not be in the public interest. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Some of the information you have requested has been withheld under exemption Section 36 (2)(b)(i) and (ii) and (2)(c) as its disclosure would be likely to inhibit the free and frank provision of advice or the free and frank exchange of views for the purposes of policy deliberation.

Exemptions under Section 36 are subject to a public interest test where we must assess the important public interest in disclosure of information versus the public interest in ensuring that there is a space within which Ministers and officials are able to discuss policy options and delivery, freely and frankly. This is a qualified exemption, and here it was the opinion of a qualified person – in this case an FCO Minister – that on balance the disclosure of these discussions was not in the public interest.

Some of the information you have requested contains personal data relating to third parties and is therefore withheld under exemption Section 40(2) and 40(3). It is our view that disclosure of this information would breach the first data protection principle, which states that personal data should be processed fairly and lawfully.

Some of the material you requested falls under the exemption defined by 41(1)(a) and (b), which relate to information provided in confidence. Material is exempt under part 1 of section 41 if it (a) was obtained by the public authority from any other person (including another public authority), and (b), if the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person. This is an absolute exemption and so the public interest test does not apply.

Some of the information you have requested is being withheld under exemption Section 42(1) Legal Professional Privilege. Section 42(1) of the Act recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which exists in order to encourage clients to be frank and open with their legal adviser. It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must, therefore, feel confident that it can disclose *all* relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit.

Transparency of decision making and knowing that decisions are taken in the correct legal context are two reasons why it might be argued that information subject to section 42(1) should be disclosed. However, the process of providing legal advice relies for its effectiveness on each side being open and candid with the other. Such candour is ensured by the operation of LPP. The importance of this principle was debated and reinforced in the House of Lords in *Three Rivers District Council and BCCI v The Governor and Company of the Bank of England* [2004] UKHL 48. For these reasons, I consider that the public interest in maintaining LPP under section 42(1) outweigh the arguments in favour of disclosure.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on gov.uk in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

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Yours sincerely

Intelligence Policy Department



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