



Foreign &
Commonwealth
Office

Arabian Peninsula and Iran Department
Foreign and Commonwealth Office
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09 September 2016

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0421-16

Thank you for your email of 21 April asking for information under the Freedom of Information Act (FOIA) 2000. You asked for:

Papers and minutes from the regular fortnightly meetings on military, humanitarian and political developments in Yemen which are chaired by FCO officials and incorporate representatives from FCO, BIS, MOD, DFID and other departments...produced since 1 July 2015 to the present.

I am writing to confirm that following up our previous letters we have now completed the search for the information which you requested.

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request. We chair regular cross departmental meetings on Yemen though they are not always fortnightly.

Please find attached the information that the FCO can release to you. Some of the information has been withheld using the following exemptions. Section 27(1)(a), Section 27(2), Section 35(1)(a), Section 40, Section 41 and Section 42.

Section 27 – international relations is a qualified exemption and is subject to a public interest test. Section 27(1)(a) of the FOIA recognises the need to protect information that would, or would be likely to prejudice relations between the United Kingdom and any other state if it was disclosed.

In this case, the release of information relating to matters could harm our relations with fellow P5 countries (USA, France, China and Russia), Yemen, members of the Gulf Cooperation Council (GCC) countries, Iran and the Netherlands.

The application of s.27(1)(a) requires us to consider the 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 P5 countries, Yemen, members of the GCC countries, Iran and the Netherlands. However, s.27

(1) (a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments and the disclosure of information detailing the UK's interaction with these countries in relation to Yemen would be likely to damage the bilateral relationship with these countries. 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, which will 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.

Section 27(2) of the Freedom of Information Act recognises the need to protect information provided in confidence to the UK Government by a State other than the UK, an international organisation or international court. In this case, the information being withheld relates to confidential discussions held between the UK Government officials and representatives of the United Nations. The application of section 27(2) requires us to consider the public interest test arguments in favour of releasing and withholding the information. We acknowledge that it is in the public interest to show that the UK Government dealt correctly with the UN in relation to the UN panel of experts report on Yemen (UN sanctions regime for Yemen established by UNSCR 2140). Disclosure of the information that was given to us in confidence would damage our relationships with the UN and they would be more guarded and less co-operative in their dealings with us. It is for these reasons that we considered that the public interest in maintaining exemption under section 27(2) outweighs the public interest in disclosure of the information.

Information you have requested is exempt under section 35(1)(a) of the Freedom of Information Act, which protects the formulation of policy. This exemption requires the application of a public interest test. It is recognised that there is a public interest in the greater transparency in the decision making process to ensure accountability within public authorities. However, officials need to be able to conduct rigorous and candid risk assessments of their policies and programmes including considerations of the pros and cons without there being premature disclosure which might close off better options and inhibit the free and frank discussion of all policy options. This information refers to our Yemen meetings which are ongoing and still under discussion. It is our view that disclosure of this information would mean that we would risk undermining decision making and discussion on this subject in future. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosure of the information.

Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances sections 40(2) and (3) of the Freedom of Information Act apply. In this case, our view is that disclosure would breach the first data protection principle. This states that personal data should be processed fairly and lawfully. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. In such circumstances, s.40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

Some of the information you requested is exempt under section 41 of the Act, as the information was obtained by the FCO from another person and disclosure would be a breach of confidence actionable by that or any other person. Exemptions under Section 41 do not require the application of a public interest test.

Some of the information you requested is exempt under section 42(1) of the Act, which exempts information in respect of which a claim to legal professional privilege (LPP) could be maintained in legal proceedings. 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) outweighs the arguments in favour of disclosure.

The FCO can neither confirm nor deny that the information disclosed represents all the information that would meet your request, as the duty in section 1(1)(a) of the Freedom of Information Act 2000 does not apply to certain information by virtue of section 24(2) of the Act.

To the extent that section 24(2) of the Act applies, we have determined that in all the circumstances of the case, the public interest in maintaining the exemption from the duty to confirm or deny, outweighs the public interest in confirming whether the FCO holds the information, and that to give a statement of the reasons for this would involve the disclosure of information which would itself be exempt information. However, this should not be taken as evidence that any further information that would meet your request exists or does not exist.

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,

Arabian Peninsula and Iran Department



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