



Foreign & Commonwealth Office

Middle East and North Africa
Directorate
Foreign & Commonwealth Office
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FREEDOM OF INFORMATION ACT 2000 - REQUEST REF: 1079-15

Thank you for your email of 11 November 2015 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

“1) The valedictory despatch written by Brian Stewart - departing HMA Algiers - in May 2005, and any subsequent documents relating to this despatch

2) The Algiers annual review despatch from December 2004, and any subsequent documents relating to this despatch”

I am writing to confirm that 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, which I attach.

With regards to Q1 and the first part of Q2

Section 24 is a qualified exemption, which means that it is subject to a public interest test. We acknowledge the public interest in openness and transparency, but we consider that there is also a public interest in the FCO protecting national security. Having reviewed the requested material, we are concerned that its release would adversely impact on the UK's security. We have therefore concluded that the exemption applies and that withholding the material serves the public interest better than release in this instance.

Section 27(1)(a) of the FOIA recognises the need to protect information that would be likely to prejudice relations between the UK and other states if it were disclosed. In this case, the release could harm our relations with Algeria.

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 Algeria. However, s.27 (1) (a) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments. If the UK 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. The disclosure of information detailing our relationship with the Algerian Government could potentially damage the bilateral relationship between the UK and Algeria. This would reduce the UK Government's ability to protect and promote UK interests through its relations with Algeria, 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 disclosure.

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 FOIA 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, section 40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

Some of the information is exempt under Section 43(2) of the FOIA, which relates to commercial interests. The use of this exemption was carefully considered. The factors in favour of disclosure of this information, including the general public interest and greater transparency and accountability, were carefully weighed against the need to allow business-people and commercial organisations the space to conduct their lawful business competitively and without fear of disclosure of sensitive commercial information.

We consider that this transparency also poses risks to the protection of commercially confidential information. Failure to protect such commercially sensitive information would limit the sources of information and interlocutors available to the FCO and limit the FCO's ability to promote the UK economy and lobby for the interests of UK businesses overseas. In this case after such consideration we believe that the public interest in withholding the redacted information outweighs the public interest in its release.

With regard to the "any subsequent documents relating to this despatch": the FCO can neither confirm nor deny whether the above information represents all the information held that would meet the terms of your request, as the duty to comply with section 1(1)(a) of the FOIA does not apply by virtue of sections 23(5) and 24(2). Section 23 confers an absolute exemption on disclosure. We do not therefore have to apply the public interest test.

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 exclusion of 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. Therefore, under Section 17(4) of the Act, the FCO is not obliged to give such a statement. However, this should not be taken as evidence that any further information that would meet your request exists or does not exist.

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Yours sincerely,

North Africa Department



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