



Foreign &  
Commonwealth  
Office

**Counter-Terrorism Department**  
Foreign and Commonwealth Office  
King Charles Street  
London SW1A 2AH

Website: <https://www.gov.uk>

21 December 2017

## **FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0649-17**

Thank you for your email of 06 July 2017 asking for information under the Freedom of Information Act (FOIA) 2000. You asked:

*“Please provide me with ministerial briefing papers containing any of the following terms “Al Qaeda”, “Al Qaida” or the acronym AQAP between 1 January 2017 and 8 June 2017.”*

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your request. The results of our search are attached.

Some briefing papers for Ministers that fall within the terms of your request are exempt from release under **sections 23(1)** Information supplied by, or relating to bodies dealing with security matters; **24 (1)** National Security; **27(1)(a)** and **(d)** International Relations – bilateral and promotion or protection of interests; **40** Personal Information and **42** Legal Professional Privilege.

Some of the information has been assessed as falling under the exemption in **Section 23(1)** of the Act as it relates to bodies (listed in subsection 23(3)), that deal with security matters. This is an absolute exemption and is therefore not subject to the public interest test when considering disclosure.

Section 24 (1) 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. We remain concerned by the terrorist threat posed by Al-Qaeda in the Arabian Peninsula (AQAP) and in the region. Countering terrorist threats that impact UK national security remain a priority for the UK Government. Having reviewed the requested material, we are concerned that its release would undermine the effective operation of the UN Al Qaeda Sanctions regime and disclose sensitive information, and would consequently adversely impact the UK's security. Disclosing information of this nature could harm our national security operational capacity. We have therefore concluded that this exemption applies to some of this information and that withholding the material serves the public interest better than release in this instance.

Some of the information is exempt under Section 27. Section 27 is also a qualified exemption, which means that it is subject to a public interest test. Releasing information relating to the request would increase public knowledge about UK sanctions policy and how

we work with international partners to address terrorist threats. However, Section 27 recognises that the effective conduct of international relations depends on 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 would not be in the public interest. As referenced in the Annual Report on CONTEST (The Government's Strategy for Countering Terrorism) we continue to ensure our counter-terrorism work in the UK is complemented by work overseas with our international partners.

Having reviewed the requested information, we have concluded that the release of some information would impact on the UK's cooperation with international partners. In this case, the release of information relating to sanctions policy and other sensitive information could harm our relations with allies and partners and the promotion or protection of UK interests abroad. For these reasons we consider that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Section 40 states that disclosure of personal data is exempt, if it relates to a living individual, and that individual is identifiable, 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 confers an absolute exemption on disclosure and there is, therefore, no public interest test to apply.

Some of the information you have requested is exempt under section 42(1). 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) outweighs the arguments in favour of disclosure.

Yours sincerely

Counter-Terrorism Department



We keep and use information in line with the Data Protection Act 1998. We may release this personal information to other UK government departments and public authorities.