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Case Reference: EA/2023/0546

**First-tier Tribunal
(General Regulatory Chamber)
Information Rights**

DECISION SECURITY MARKING: [OPEN]

**ON APPEAL FROM: Information Commissioner's Decision Notice No: IC-246523-W4P5
dated 22nd November 2024**

Considered on the Papers at: Field House

Date of Consideration: 22nd October 2024

Date of Decision: 17th December 2024

Decision given on: 24 January 2025

Before

**JUDGE A SNELSON
JUDGE L MOAN
TRIBUNAL MEMBER A CHAFER**

Between

HELEN CROSS

and

**(1) INFORMATION COMMISSIONER
(2) THE SECURITY SERVICE (MI5)**

Appellant

Respondents

Decision: The appeal is Dismissed

REASONS

Decision under appeal and background

1. The Appellant appeals against the Information Commissioner's ("Commissioner") decision dated 22nd November 2023 in notice IC-246523-W4P5 which concluded that the Security Services (MI5) were entitled to withhold information requested by the Appellant under the Environmental Information Regulations 2004 ("EIR"). The Commissioner decided that MI5 were entitled to rely on Regulation 12(5)(a) (national security). The information requested concerned carbon emissions data.

2. On 13th February 2023 the Appellant wrote to MI5 and requested information in the following terms -

"In accordance with the Environmental Information Regulations, please provide me with a copy of the following information:

1. The amount of CO₂e produced by MI5, broken down by scope 1, 2 and 3 emissions during 2021 and 2022.

2. A list of activities that are included in your scope 3 emissions calculation."

3. The term "scope" is a reference to the categories of emissions within the Greenhouse Gas Protocol. Scope 1 emissions are direct emissions that are owned or controlled by an organisation, whereas scope 2 and 3 emissions are indirect emissions and a consequence of the activities of the organisation but occur from sources neither owned or controlled by it. Scope 1 includes emissions from vehicles owned by an organisation. Scope 2 includes energy purchased and consumed. Scope 3 includes the purchase, use and disposal of products from suppliers. Scopes 1-3 are mutually exclusive.

4. On 13th March 2023 MI5 wrote to the Appellant and confirmed that:

"MI5 does hold data on the organisation's carbon emissions. We have considered the presumption in favour of disclosure contained in Regulation 12(2) and we have concluded

that we are unable to disclose the information because to do so would have an adverse effect on national security (12(5)(a)). We acknowledge the public interest in disclosure of this environmental information but have concluded that the public interest in maintaining the exception outweighs this."

5. On 26th May 2023 the Appellant submitted a request for an internal review. Following a review, MI5 confirmed on 10th July 2023 that the refusal to disclose was maintained. MI5 submitted that the potential for information to be inferred from its carbon emissions data would be of interest to hostile actors, such as estimates regarding energy usage and therefore its computing capabilities. This would adversely affect national security. MI5 also submitted that data over a period would allow hostile actors to identify changes in MI5's business activities, which would impact MI5's ability to function effectively and thus damage national security.
6. The Appellant submitted a complaint to the Commissioner on 19th July 2023.
7. On 1st November 2023 following engagement with the Commissioner, MI5 disclosed some information to the Appellant in relation to Part 2 of her request, namely a list of activities that made up MI5's scope 3 emissions as of April 2023.
8. As part of his investigation, the Commissioner considered the withheld information. Ultimately the Commissioner was satisfied that the causal link between disclosure and the adverse effect on national security had been demonstrated and that exception 12(5)(a) was engaged. The Commissioner was unable to elaborate on his reasons without compromising the withheld information and defeating the purpose of the exception.
9. The Appellant placed weight on the strong public interest in the information being disclosed noting the climate crisis and the need to ensure MI5 were seeking to reduce their emissions. She submitted that the mechanisms for holding MI5 to account were more limited than other public bodies and so there was additional public interest in the disclosure of the information under the EIR.

10. MI5 acknowledged there was a public interest in its environmental impact but relied on the overarching need to maintain national security.
11. The Commissioner recognised the serious concerns of the Appellant and the competing views about national security. The Commissioner placed significant weight on the public interest in protecting national security and that routine disclosure may provide information about MI5 activities to hostile actors. The Commissioner concluded that the balance of the public interest favoured maintaining the exception in relation to the withheld information.

The Appellant's grounds of appeal and submissions

12. The Appellant in her written grounds of appeal dated 19th December 2023 submitted that the Aarhus Convention was clear that individuals had the right to live in environmentally safe circumstances and that increased access to environmental information would lead to greater awareness, a free exchange of views, more effective public participation in decision-making and a better environment.
13. She challenged both the applicability of the exception and the public interest test being balanced in favour of withholding the information.
14. As regards applicability of the exception, she said that MI5 had not demonstrated a causal link between the disclosure of the information and the claimed adverse effect of that disclosure; MI5 had not provided any evidence that the adverse effect of disclosure was more likely than not to occur. She described the position of MI5 to be based on assumptions and that they had overlooked the difficulty of inferring accurate information from emissions data. The high degree of speculation involved in trying to draw any meaningful conclusions from the data would impair the reliability and value of any conclusions drawn. Given improvements in reducing carbon emissions, it was not axiomatic that a decrease in emissions would indicate a reduction in capacity. Publishing emissions data would not divulge strategic information about operational capacities or expose vulnerabilities. MI5 had not

identified any specific data within the requested scope 1, 2 or 3 emissions information as being problematic.

15. The Appellant further submitted that, even if the Tribunal was against her on scope 1 and scope 2 emissions, it should regard the request relating to scope 3 emissions more favourably since these were far less revealing about MI5 operations.
16. The Appellant made several wider points. First, government departments including the Ministry of Defence and GCHQ who also handle information relating to national security had previously released information (about its scope 3 emissions). And MI5 used to publish data about its power usage on its website.
17. Second, MI5's arguments on the public interest test were "*vague, non-specific and not supported by any evidence*". In contrast, the climate crisis was a threat to the welfare of current and future generations alike and urgent action needed to be taken to reduce emissions. The data was overwhelmingly in the public interest. Vague and non-specific concerns about national security should not override transparency about important climate change issues. The Commissioner had not given sufficient weight to the public interest in disclosure. There were limited opportunities to hold MI5 to account and the public interest under the Regulations was one of the very limited mechanisms of being able to do so.
18. The Appellant raised further points on 6th June 2024 following the replies from the Respondents. She reiterated that MI5 had failed to establish a clear and compelling link between releasing the emissions figures and damage to national security. She described MI5's open response as comprising speculative and unsubstantiated assertions rather than fact-based risks. MI5 had not offered a plausible and realistic explanation of how aggregate emissions data could be exploited by hostile actors. The public interest in disclosure remained compelling. She invited the Tribunal to critically examine the closed material, to be alert for inconsistencies in the evidence and flawed reasoning and to carefully consider the public interest test.

19. The Appellant maintained her position in her final submissions document dated 13th September 2023. She said that it was not enough for MI5 to show that disclosure "could" or "might" have an adverse effect, nor for the authority to identify a theoretical harm which would occur as a direct result of the disclosure; MI5 had not established a causal relationship between disclosure of the requested information and the alleged adverse consequences, or that any of the stated consequences was more likely than not to occur. There was a lack of detailed evidence on the specific impact of disclosure.
20. The Appellant further submitted that MI5's refusal was based on assumptions which did not account for the complexities which arise in comparing and analysing data. There were multiple factors such as weather variations, changes in suppliers or upgrading systems that could influence emissions without impact on operational changes. Advancements which reduce carbon emissions would also need to be reflected in any data comparisons. The request had to be considered in its own right, rather than as part of disclosures of data over a period of time and MI5 could consider any future requests having regard to the information in the public domain.
21. She reiterated her concerns that Scope 3 emissions related to external partners and suppliers and would not reveal any detailed information about MI5's own operational capacity or activities and reiterated her concerns about the weight afforded to climate change in the public interest balancing test.

The Commissioner's submissions

22. The Commissioner opposed the appeal in his response dated 17th April 2024. He observed that MI5's response could not be repeated in an open response to the appeal and recommended that MI5 should be joined as a party to the appeal.
23. In his response the Commissioner advanced no positive case on the merits of the appeal, but identified the applicable legal principles as follows -

(i) A public authority can only apply the exceptions in Regulation 12(5) where it was more probable than not that the adverse effect would happen.

(ii) The Upper Tribunal considered the principles regarding national security in the case of **FCDO v Information Commissioner, Williams and Others [2021] UKUT 248 (AAC)** albeit the case involved a request under the Freedom of Information Act 2000 but the following guidance could be extracted -

(1) The term national security has been interpreted broadly and encompasses the security of the United Kingdom, its people and various associated aspects - **Baker v Information Commissioner & Cabinet Office (EA/2006/0045)** at paragraph 26 applying **Secretary of State for the Home Office v Rehman [2001] UKHL 47** at paragraph 15-16 per Lord Slynn, paragraph 50 per Lord Hoffman and paragraph 64 per Lord Hutton.

(2) A threat may be direct or indirect - **Quayum v Information Commissioner & Foreign and Commonwealth Office [2012] 1 Info LR 332** at paragraph 42 and **Rehman** at paragraphs 16 and 64.

(3) National security is a matter of vital national importance in which the Tribunal should pause and reflect very carefully before overriding the sincerely held view of the relevant public authorities - **APPGER v Information Commissioner & Ministry of Defence [2011] UKUT 153 (AAC)** at paragraph 56 citing **Rehman** and **Quayum** at paragraph 43; **R (Binyam Mohammed) v Secretary of State for Foreign Affairs [2010] EWCA Civ 25** at paragraph 131 per Lord Neuberger MR.

(iii) Further in, **R (Lord Carlile of Berriew) v SSHD [2014] UKSC 60**, the Supreme Court recognised at paragraph 51 that a precautionary approach is generally required in dealing with potential threats to national security and public safety. The executive branch of the Government had expertise and experience in relation to foreign policy matters as well as security matters which the Tribunal cannot match;

Plowden v Information Commissioner (EA/2011/0225 and 228) at paragraph 21 and **R (Mohamed) v SSFCA [2010] EWCA Civ 65** at paragraph 131.

(iv) However, even if the exception is found to apply a public authority can only refuse to disclose the requested information if "in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information" (Regulation 12(1) EIR). Under the EIR there is a presumption in favour of disclosure (Regulation 12(2) EIR).

MI5's (open) submissions

24. MI5 submitted an open response dated 24th May 2024 and opposed the appeal on both grounds submitted by the Appellant.

25. MI5 maintained that the data would be of interest to hostile actors and terrorists who are known to collect data across various activities and pay close attention to any MI5 information in the public domain. Those actors are likely to compare data with other datasets (some of which may not be in the public domain) to build a picture of MI5 operations.

26. MI5 gave examples of damage that might be caused by disclosure of the withheld information -

(a) Information about scope 1 emissions might enable hostile actors to gain insight about MI5's fleet of vehicles. This might be compared with the fleet of vehicles within their own intelligence services and by comparison, allow conclusions to be drawn about the size and level of activity of MI5 vehicles. Improving hostile actors' understanding about MI5's fleet of vehicles would damage MI5's capability to counter threats and limit its ability to protect national security.

(b) Information about scope 2 emissions would allow calculation of electricity consumption using publicly available conversions. If this data were released over

time, it would demonstrate how MI5's operations and capabilities fluctuate particularly as regards incidents and current events. Again, hostile actors might use their own intelligence services as a comparator. This might enable hostile actors to identify whether MI5 was developing or employing new technologies or conversely whether MI5 was behind other intelligence services in that regard.

(c) Information about scope 3 emissions and the release of any data relating to business travel would be damaging to national security because -

(i) A one-off disclosure of the amount of MI5 business travel could point to MI5 activity overseas.

(ii) Release of this information over time would reveal increases or decreases in overseas travel. When considered alongside information that is known about significant national security issues in areas of the UK, this data could be used to assess whether and to what extent MI5 resources were being deployed to those areas.

27. MI5 calculated its emissions and took its environmental responsibilities very seriously. It acknowledged the public interest in environmental information especially as regards government departments. But that must be weighed against the public interest in MI5's critical function of protecting national security. Undermining that ability would expose the public to risk including threats to life. The public interest was decisively in favour of the maintaining of the exception in this case.

28. MI5 also submitted two closed damage assessments to support its position.

Procedural issues relating to the determination of the appeal

29. The Tribunal considered the open bundle which ran to 82 pages. The Appellant's final submissions dated 13th September 2024 were not in the bundle but were considered in full. The Respondent provided an authorities bundle of 355 pages and a 22 page decision which could already be found within the authorities bundle.

30. The Tribunal had also been provided with closed material which had not been seen by the Appellant. Rule 14(6) directions had already been made as regards this material. The bundle contained the withheld data, a closed damage assessment dated 29th September 2023 and a supplemental closed damage assessment dated 18th July 2024.
31. No party requested a hearing to determine the appeal and the Tribunal considered that it was just to determine the appeal without a hearing being convened.

The Legal Framework

32. Regulation 5(1) of the EIR provides that - "*a public authority that holds environmental information shall make it available on request*". This is described as the duty to make information available. That duty is subject to the exceptions in Regulation 12.
33. A public authority may refuse to disclose environmental information requested if-
- (a) An exception to disclosure applies under paragraphs (4) or (5); and
 - (b) In all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
34. Under Regulation 12(2) a public authority shall apply a presumption in favour of disclosure.
35. Regulation 12(5)(a) of the EIR provides that a public authority may refuse to disclose information if its disclosure would adversely affect international relations, defence, national security or public safety. This sets a high threshold: the adverse effect has to be more probable than not.
36. "National security" is not defined in the Regulations but the House of Lords considered the term in the decision of **SSHD v Rehman [2001] UKHL 47**. At paragraph 50 Lord Hoffman said "*there is no difficulty about what national security means. It is the security of the United Kingdom and its people. On the other hand, the question*

of whether something is in the interest of national security ... is a question of judgement and policy. Those decisions are entrusted to the executive." At paragraph 57 he added that the executive had the benefit of advice and expertise to evaluate that risk. The judiciary should be slow to interfere. At paragraph 15 Lord Slynn said:

"There must be some possibility of risk or danger to the security or well-being of the nation ... it is not accepted that this risk has to be the result of a direct threat to the United Kingdom. Nor is it accepted that the interest of national security are limited in action by an individual which can be said to be targeted at the United Kingdom, its system or government or its people."

37. The Upper Tribunal has also confirmed the need to attach appropriate weight to the evidence from the Government about national security. The Government has more information about the circumstances and the Tribunal should be slow to override the views of the public authorities - **APPGER v Information Commissioner & Ministry of Defence [2011] UKUT 153 (AAC)**.
38. On the other hand, the exceptions under the EIR are interpreted restrictively - **Highways England Company Ltd v Information Commissioner [2019] AACR 17**. The threshold to justify non-disclosure is a high one and the authority relying on an exception must provide enough evidence to support the exception claimed.
39. Guidance on the public interest test can be found in the case of **Vesco v Information Commissioner [2019] UKUT 247 (AAC)** as follows at paragraph 18-
- (a) The public interest test requires the decision maker to analyse the public interest, which is a fact-specific test turning on the particular circumstances of a case.
 - (b) The starting point is the content of the information in question, and it is relevant to consider what specific harm might result from the disclosure.
 - (c) The public interest (or various interests) in disclosing and in withholding the information should be identified; there are values, policies, etc. that give the public interests their significance. The factors relevant to determining what is in the public interest in any given case are usually wide and various. Clearly the

statutory context in this case includes the backdrop of the Directive, the Aarhus Convention and the policy behind recovery of environmental information.

(d) Once the public interests in disclosing and withholding the information have been identified, then a balancing exercise must be carried out. If relevant factors are ignored, or irrelevant ones taken into account then the decision about where the balance lies may be open to challenge.

(e) If the public interest in disclosing is stronger than the public interest in withholding the information, then the information should be disclosed. And at paragraph 19 of that case UTJ Poole QC said -

"if [the above] has not resulted in disclosure, a public authority should go onto consider the presumption in favour of disclosure under Regulation 12(2) of the EIR. It was "common ground" ... that the presumption serves two purposes; (1) to provide the default position in the event that the interests are equally balanced; and (2) to inform any decision that may be taken under the Regulations."

40. The reality is that the public interest in maintaining the national security exception is likely to be substantial and to require a compelling competing public interest to equal or to outweigh it - **Kalman v Information Commissioner & Department for Transport [2011] 1 Info LR 664** at paragraph 47.

41. The date at which the public interest balance must be decided is the date of the primary decision refusing the request - **R (Evans) v Attorney-General [2015] UKSC AC 1787** at paragraph 73 " ... a refusal by a public authority must be determined as at the date of the original refusal ..." although "facts and matters, even grounds of exemption may, subject to the control of the Commissioner or Tribunal, be admissible even though they were not in the mind of the individual responsible for the refusal or communicated at the time of the refusal to disclose (i) if they existed at the date of the refusal, or (ii) if they did not exist at that date, but only in so far as they throw light on the grounds now given for refusal."

42. The presumption in favour of disclosure informs both the application of the exception and the public interest balancing test as highlighted in **Vesco**.

43. Regulation 18 of the EIR confirms that the appeal provisions of section 57 of the Freedom of Information Act 2000 apply to a decision under the EIR.
44. The powers of the Tribunal were considered by the Upper Tribunal in **Information Commissioner v Malnick and the Advisory Committee on Business Appointments (2018) UKUT 72 (AAC)** who confirmed that the Tribunal conducts a full merits review of the Commissioner's decision albeit the starting point was the Commissioner's decision. The Tribunal will give such weight as it considers fit to the Commissioner's views and findings; and will determine whether the Commissioner's decision was in accordance with the law. The appeal process is not adversarial, it is inquisitorial by nature.
45. In **Vesco v Information Commissioner [2019] UKUT 247 (AAC)** the Upper Tribunal confirmed that the First Tier Tribunal was entitled to give such weight to the Information Commissioner's view as the Tribunal considers appropriate but was not bound by those findings and had to reach its own conclusions.

Conclusions of the Tribunal

46. All parties agreed that the information requested was environmental and the relevant provisions were to be found in the EIR. All parties agreed about the specific Regulations that were relevant to the appeal; it was the application of the exception and the public interest test that were in issue.
47. Part 2 of the request sought "*A list of activities that are included in your scope 3 emissions calculation.*" MI5 provided information in relation to Part 2 of the request on 1st November 2023. The Tribunal noted that the request could be interpreted in two different ways: the words "*in your scope 3 calculation*" could restrict the list to those activities for 2021 and 2022 as per Part 1 of the request or it could relate to a list of activities in scope 3 calculations at the date of the request (February 2023). MI5 considered that they had answered Part 2 of the request and the Appellant has not argued otherwise. The Tribunal considered that this was unlikely to be a significant

issue as the list of activities was unlikely to have changed to any degree between 2021 and 2023; the calculations might have changed but not the activities in themselves. The Tribunal therefore confined itself to Part 1 of the request for information.

48. The Tribunal reminded itself that it was conducting a full merits review and was entitled to exercise its discretion differently from the Respondents. The starting point was the presumption of disclosure under the EIR noting that the purpose of the Regulations was to allow public debate and scrutiny of information relating to environmental matters. Any exception claimed must be the subject of anxious scrutiny. The public interest must assess the exception against the backdrop of the presumption as well as the public interest balancing test. The Commissioner states in his guidance the exception sets a "high threshold". *Coppell on Information Rights*, 6th Ed (2023) (para 19-015) observes: "The requirement in Regulation 12(5)(a) ... presents a higher threshold ... than the corresponding requirement in section 27 [FOIA]".
49. In the open damage assessment, MI5 referred to the current threat level in the United Kingdom as "substantial", namely an attack is likely. That threat emanates from various hostile actors including home-grown ones. This is the context within which government departments are working to protect public safety and sensitive information. There is no doubt, in the Tribunal's judgment, that any release to hostile actors of relevant information about the operational capacity of MI5 would adversely impact on national security. The security landscape in the United Kingdom has drastically changed in the last 20 years due to increasing sophistication and complexities in identifying hostile actors, the inherent dangers of electronic information and the increased ability to assimilate large amounts of data.
50. The Appellant challenged how raw data as to emissions would adversely impact on national security. The Appellant submitted that the arguments of MI5 were generic, speculative and based on assumptions. She doubted that accurate inferences could be drawn from the emissions data, not least because there were so many other variables that might impact on the emissions level. She said that MI5 had not identified any specific data as being problematic. She particularly doubted that scope

3 emissions could be used to infer MI5 operational capacity noting that these were external supplier's emissions.

51. But MI5 placed emphasis in its open damage assessment on the 'mosaic effect' of disclosure of seemingly harmless information which highly sophisticated hostile actors may be able to piece together to gain a wider perspective on security capabilities. In **Attorney General v Guardian Newspapers Ltd (No 2) [1990] 1 AC 109** at paragraph 269E-G Lord Griffith held that "*The Security and Intelligence Services are necessary for our national security. They are, and must remain, secret services if they are to operate efficiently. There is, in my view, no room for an exception to this rule dealing with trivia that should not be regarded as confidential. What may appear to the writer to be trivial may in fact be the one missing piece in the jigsaw sought by some hostile intelligence agency.*"
52. The Appellant points out that some relevant energy consumption data has been published by MI5 in the past. She does not submit that it was the same class of information as she now seeks. In any event, if data comparable to that information now sought is in the public domain, allowing the appeal would imperil national security since comparison of datasets over time would be likely to enable inferences to be drawn about fluctuations in operations and capability. MI5 also make the point that hostile actors may have already procured sensitive data by illegitimate means. It was unrealistic to assume that the raw emissions data could or would not be used alongside other data to ascertain damaging information about MI5.
53. The open damage assessment highlighted how the emissions data could be used to identify MI5 operations or capabilities. Scope 1 emissions data could indicate fluctuations in vehicle use, be compared against the equivalent emission data from other intelligence services and could lead to accurate judgments regarding the level of activity of MI5's vehicle fleet and the amount of coverage that fleet could provide. Improving hostile actor's understanding of the fleet would damage MI5's capability to counter state threats, thereby limiting MI5's ability to protect national security.
54. MI5 submitted that scope 2 emissions data would easily allow the calculation of electricity using published conversion factors. This could indicate MI5's capabilities

and comparative data over a period of time would enable a hostile actor to understand how the technical infrastructure of MI5 such as server usage/ computing power was changing. This information would strengthen assessments as to whether MI5 was developing and deploying technologies. Hostile actors could use data from equivalent intelligence services as a comparator to estimate capabilities.

55. The Appellant has received a list of scope 3 activities which the Tribunal considered were unlikely to change substantially. Some of the emissions within scope 3 emissions data related to international travel, and this data could be used to assess whether and to what extent MI5 are deploying resources to other areas. Some hostile actors have a strong interest with MI5 operations abroad. Fluctuations in scope 3 emissions may indicate more or less overseas intelligence cover.
56. The closed damage assessments amplified the concerns of MI5. The first closed damage assessment included submissions as to how the emissions data could be used and the nature of the conclusions that could be drawn from those data, whether analysing the data alone, by also using data in the public domain or by using comparators. The second closed damage assessment identified stark and very accurate conclusions that could be drawn from the raw data itself with simple calculations. There had previously been some information in the public domain about MI5's power consumption which allowed a direct comparator for even the release of one-off data. More information and detail about the conclusions that could be drawn and concerns about disclosure are contained in the closed annex to this decision. As a closed document, that Annex will not be provided to any person other than the Respondents. Having considered very carefully the closed damage assessments, the Tribunal considered the submissions from MI5 to be clear, compelling and plausible.
57. The Tribunal acknowledged the much greater expertise of MI5 in assessing the risks to national security and placed weight on the damage assessments as an assessment of that risk.

58. In this case the Appellant requested specific calculations which MI5 said may highlight their capabilities and strategic operations by comparison with known information in the public domain or information gleaned by hostile actors as comparators. The Appellant has not had the benefit of seeing the two closed damage assessments and so had neither seen the submissions nor had the opportunity to specifically comment on the same. The second closed assessment in particular provided very specific calculations using the withheld emissions data and other publicly known information to produce information about MI5 resources, strategy and operations. In this way, MI5 has demonstrated a direct link between the emissions data and vital information which must be safeguarded in the interests of national security.
59. The Tribunal concluded that the emissions data would give an insight into the capabilities and operations of MI5 and that this information would be of assistance to hostile actors, thereby compromising the ability of MI5 to maintain national security.
60. The Tribunal considered the request for each type of emissions data and for each year individually. MI5 had provided detailed submissions about how the data might be used for each scope of emission and the impact of a one-off disclosure as well as multiple years' disclosure. Having considered those submissions, the Tribunal is satisfied that the disclosure of the data requested would disclose information about the MI5 fleet and how MI5 operate and have been operating. We also accept MI5's submission that terrorists are known to collect and analyse data to identify information about the security services.
61. The Tribunal is satisfied that specific calculations about emissions would have operational significance. This is not to say that all MI5 data would be exempt; that was not what the Regulations intended. Had the information requested been about what strategies MI5 had put in place to reduce carbon emissions or the target percentage level reductions to carbon emissions within a specified period, this may have exposed reassurances about MI5 meeting its emissions responsibilities without

compromising their operations.. The Tribunal concluded that the requested information in Part 1, if disclosed, would have an adverse effect on national security and that Regulation 12(5)(a) was properly engaged.

62. As regards the public interest test, there were some factors that the Tribunal considered to be of little weight. The fact that other government departments who had national security responsibilities were publishing their own emissions data was not persuasive. The Tribunal considered that the Ministry of Defence and GCHQ were large organisations with other responsibilities not just national security, and global estimations of emissions data, albeit not supplied by the Appellant for us to consider, were unlikely to specifically identify their activities with regard to national security. As the Appellant said at para 21 of her grounds of appeal "*Emissions data is routinely published by Government departments ... who also undertake sensitive work relating to national security.*" The Security Services were by comparison a much smaller operation whose primary purpose was national security. The emissions data was much more significant to their operations and to national security.
63. Nor was the Tribunal persuaded by the Appellant's argument that MI5 had previously published its power usage on their website (para 22 of the grounds of appeal). Whilst again that data was not provided to the Tribunal, the Tribunal have already noted the vast change in the security landscape in the last 20 years and what may have been appropriate then or even without the benefit of hindsight, may not be appropriate now. MI5 appeared to have removed that data which in some small way, recognises that they appreciate now that even historical data was a risk to their operations.
64. The Tribunal began the public interest consideration with the presumption in favour of disclosure. The Appellant put forward a compelling case as regards climate change and the need for organisations, especially public authorities, to implement changes to reduce their carbon emissions as a serious issue now and for future generations. The cogency of these submissions was accepted by both Respondents and equally by the Tribunal. The impact of climate change is almost universally acknowledged and

urgent action is required to abate further deterioration of atmospheric conditions, to reduce the rise in sea levels and to reduce global-warming. The issue affects all citizens across the Earth and the impact cannot be understated in terms of its significance. The Aarhus Convention was adopted to provide citizens with this type of information to allow for awareness, debate and informed action. This factor was a compelling consideration to be factored into the public interest test.

65. All this said, the public interest in MI5 carbon emissions as a public body is influenced by the size of MI5 as a small specialist arm of the government as opposed to the emissions of the government as a whole, which would attract a weightier public interest in disclosure.
66. Moreover, the central argument from the Respondents was even more compelling. National security issues are dominant and pressing, impacting on everyone, and requiring hyper-vigilance at all times. Terrorism has struck at the core of security and hostile actors remain in eager search of any nugget of information that may assist their cause. The public has a legitimate interest in MI5 not being compromised in its ability to keep the population safe. The Tribunal considered that the disclosure of seemingly harmless information and the mosaic effect of piecing together information to be at the core of this appeal. MI5 had confirmed that hostile actors were increasingly sophisticated in their use of raw data and data collection.
67. Having found that the disclosure of the information requested would adversely affect national security, that factor weighed determinatively in the balance towards withholding the information. On that basis, the appeal is dismissed.
68. These reasons have been prepared collaboratively by both judicial members of the Tribunal, and therefore bear the names of both judges. For the avoidance of doubt, they have also been approved by Tribunal Member Chafer.

Judge A Snelson

Judge L Moan

Date: 24th January 2025