

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 December 2022

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information relating to the Research Information and Communications Unit ('RICU'). The Home Office refused to provide this information citing section 24 of FOIA (the exemption for national security).
2. The Commissioner's decision is that the Home Office correctly relied on section 24 to withhold the information.
3. No steps are required as a result of this notice.

Background

4. The Commissioner understands that the aim of the CONTEST Strategy 2018¹ (referenced at paragraph 9 of this notice) is to reduce the risk to the UK and its citizens and interests overseas from terrorism, so that people can go about their lives freely and with confidence.
5. There are four strands to the CONTEST Strategy which are:
 - Prevent: to stop people becoming terrorists or supporting terrorism.

¹ <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest-2018>

- Pursue: to stop terrorist attacks.
 - Protect: to strengthen our protection against a terrorist attack.
 - Prepare: to mitigate the impact of a terrorist attack.
6. The CONTEST Strategy states that RICU's role is to work with civil society groups to counter radicalising and extremist narratives in communities and online.
7. The Home Office has told the Commissioner that the specific details of RICU's counter-terrorism activity are not in the public domain.

Request and response

8. On 11 November 2021, the complainant wrote to the Home Office and requested information in the following terms:
- "1. Could you please provide us with all the evaluations done by RICU or research/delivery partners of RICU's strategic communications campaigns, RICU interventions more broadly and RICU International interventions?
 2. We are additionally interested (if resource allows) in any details (via email discussions, strategic documents, or meeting minutes) of the decision-making process around selection of particular approaches - e.g. the Redirect method, particular profiling or content strategies - and what data and information feed into these processes. Any communications or documents pertaining to how evaluations are used to inform future policy would also be really useful - we are trying to develop an understanding of how the field is developing within government. However, we appreciate that this might extend past what is possible under resource constraints."
9. The Home Office responded on 23 November 2021 and refused the request citing section 24 of FOIA.
10. The complainant requested an internal review on 26 November 2021. He said he wished to limit his request to the 'type 1' (former) evaluations of campaigns already in the public domain in one form or another, (either because they have been reported, or because they have been delivered to specific publics within the UK). He argued that:
- "These are known to exist (and the content and targeting will be already available to those targeted by the campaign if not to the wider public). Thus the only additional material would be the evaluation of the effects of these campaigns - which poses no

national security risk. We do not request access to any campaigns evaluations involving more secretive techniques, or where there is operational information about individuals (data which in any case should have been cleaned from all evaluations)."

11. The Home Office did not provide the outcome of its internal review until 24 January 2022. It maintained that section 24 of FOIA applied to the type 1 evaluations, explaining:

"It is the aim of the Home Office to counter the radicalising influence of terrorist and extremist actors. The CONTEST Strategy 2018 states RICU's role is to work with civil society groups to counter radicalising and extremist narratives. However the details of RICU's specific counter-terrorism activity are not in the public domain. All RICU activity is underpinned and directed by sensitive information pertaining to terrorism threats and the identification of at-risk audiences.

Releasing details of the evaluation of RICU activities would reveal the specific strategies, rationale and tactics employed. It is the view of the Home Office that revealing this would undermine the effectiveness of this activity. Terrorists and other hostile states could exploit this information.

Your request has quoted two specific RICU pieces of work that are in the public domain. These relate to Cyber and Serious and Organised Crime which are separate from RICU's counter-terrorism activity. You have also quoted a published piece of Metropolitan Police research into travel to Syria from 2014 which was not RICU activity.

I confirm that I am satisfied that section 24(1) has been correctly applied to withhold the information, for the reasons provided. Disclosure of this information would reveal information about government capabilities on assessing and addressing national security threats. This information is highly sensitive, and, should it become available, could be exploited by terrorists and other hostile actors to their advantage. This would be detrimental to the interests and safety of UK citizens.

My conclusion is that the original response was correct to withhold the information within scope of your request under section 24(1) and that the public interest balancing test reached the correct decision."

Scope of the case

12. At the outset of the Commissioner's investigation, the complainant provided the Commissioner with supporting submissions, both verbally and in the form of supporting documentation, all of which the Commissioner has reviewed before reaching his decision in this case.
13. Having reconsidered its handling of the request, as required during the course of the Commissioner's investigation, the Home Office contacted both parties to explain a revised reading of the request in an attempt to agree a pragmatic way forward.
14. On 31 October 2022, the Home Office wrote to inform both the complainant and the Commissioner that it would be unable to comply with part 2 of the request on cost grounds citing section 12 of FOIA (the cost of compliance). As per the Commissioner's section 12 guidance², a public authority is not required to respond to any part of a request if any part of it attracts section 12 of FOIA.
15. The Home Office said it had now read part 2 of the request differently (ie "We are additionally interested {if resource allows and "...we appreciate that this might extend past what is possible under resource constraints...}")". The Home Office asked the complainant whether he would agree with its interpretation that the original intention had been to focus on part 1 of the request and only to consider part 2 if resource allowed. To that end, the Home Office asked the complainant to confirm whether part 2 could be disregarded.
16. This pragmatic approach was agreed by all parties – the alternative would have meant a likely finding and decision notice by the Commissioner that section 12 applied and the complainant being advised to refine his request to part 1 only.
17. On 21 November 2022, the Home Office informed both the complainant and the Commissioner that it still considered section 24 of FOIA to apply to part 1 of the request.
18. Therefore, in this case, the Commissioner has considered whether the Home Office was entitled to rely on section 24 of FOIA in relation to the first part of the request only.

² https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

Reasons for decision

Section 24 – national security

19. Section 23(1) of FOIA states that information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).
20. Section 24 of FOIA states that information which does not fall within section 23(1) is exempt information if exemption from [the duty to communicate information] is required for the purpose of safeguarding national security.
21. Although there is no definitive definition of national security, the Information Tribunal for *Norman Baker v the Information Commissioner and the Cabinet Office* (EA/2006/0045³ 4 April 2007) provided the following:
 - “national security” means the security of the United Kingdom and its people;
 - the interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people;
 - the protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence;
 - action against a foreign state may be capable indirectly of affecting the security of the UK; and
 - reciprocal co-operation between the UK and other states in combating international terrorism is capable of promoting the United Kingdom’s national security.
22. In this context the Commissioner interprets “required for the purpose” [of safeguarding national security] to mean ‘reasonably necessary’.

³ <http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i24/Baker.pdf>

23. As per the Commissioner's section 24 guidance⁴, although there has to be a real possibility that the disclosure of requested information would undermine national security, it is not necessary to show that disclosing the information would lead to a direct or immediate threat to the UK.

24. The complainant has argued:

"We recently requested details of evaluations of targeted influence marketing campaigns carried out by RICU, the Home Office's counter-terrorism communications agency. These campaigns are carried out in the public domain and targeted at specific groups deemed at-risk of radicalisation - through mainstream media channels, influencers, and marketing streams, in partnership with private sector marketing agencies. However, there is little evidence as to their broader effectiveness as a counter-terrorism strategy, and well-established risks such as blowback and other unintended consequences associated with these methods.

We have requested details of evaluations which exist of these campaigns - the campaigns themselves are broadcast to the public, and hence not secret, however we believe it is crucial that assessments of their effects are made available in the public interest. We have asked for details of evaluations of the interventions made by RICU and RICU international (with a particular interest in counter-radicalisation campaigns, though not limiting our request to these). However, the Home Office has issued a blanket refusal to provide us with any details, despite the fact that much of this material will (a) not refer to relevant ongoing national security concerns (b) be relevant to RICU's work on non-radicalisation based topics, such as in cyber or organised crime, (c) the public interest in making this available (d) the fact that any redactions necessary to make this material available should be trivial given the structure and content of these evaluations."

25. The Home Office has set out its position to the complainant in the internal review result (see paragraph 7 of this notice).

26. The Home Office has requested that the detail of its submission arguments are not reproduced in the decision notice due to its

⁴ <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021976/ic-101246-w9n8.pdf>

sensitivity. The Commissioner has respected its position but has taken all those arguments into account in reaching his decision.

27. Having considered all the arguments and submissions put forward by both parties in this case, and having reviewed a sample of the withheld information, the Commissioner is satisfied that, in this case, the Home Office has demonstrated that withholding the information is required for the purposes of safeguarding national security.
28. The Commissioner has, therefore, concluded that the requested information is caught by section 24 of FOIA and it is properly engaged.

Public interest test

29. Section 24 is subject to the public interest test, as set out in section 2 of FOIA.

Arguments in favour of disclosure

30. As above, the complainant has argued that it is in the public interest to know about the assessments of the effects of the evaluations on publicly available campaigns.
31. Additionally, he said that access to the requested evaluations should be provided because:

“...they should by definition not contain operational information (as they are wider evaluations of the programmes and) [sic] and sensitive information can be redacted. We are explicitly not asking for details of covert operations, such as those which rely on informants or other clandestine means. We are only interested in evaluations of campaigns carried out on the public - the only additional information revealed by this request would be assessments of the effects of these campaigns and how these have informed ongoing policymaking. While there are clear points where redactions might need to be made, we believe that it is reasonable to request that the information which can be made public (without compromising covert methods and threat assessments etc.) should be made public. Additionally, not only are the existence of these campaigns a matter of public record (and several have been reported in the press), much of the detail of these campaigns relates to historic threats and interventions, which no longer pose an active operational risk. We believe that there is a clear public interest into making as much of this data as can safely be made public available”.

32. In its response to the complainant's request, the Home Office recognised that:

"There is general public interest in the disclosure of the information within the scope of your request. Openness in government increases public trust in, and engagement with, the Government. The disclosure of the requested information could enhance the openness of government and help the public understand how it assesses potential national security threats and protects UK citizens."

33. In its submissions to the Commissioner, the Home Office acknowledged that disclosure of the evaluation reports would allow for greater transparency and would reveal the effectiveness of the strategies and tactics behind RICU activities.

Arguments in favour of maintaining the exemption

34. The Home Office submitted that:

"Disclosure of this information could reveal information about government capabilities on assessing and addressing national security threats. This information is highly sensitive, and, should it become available could be exploited by terrorists and other hostile actors to their advantage. This would be detrimental to the interests and safety of UK citizens."

35. The Home Office also said:

"...disclosure would also reveal detailed information and would also render the work of RICU less effective. This in turn would potentially compromise the wider Prevent programme and subsequently be detrimental to our ability to protect the security of the UK and minimise the risk of harm to the public".

Balance of the public interest

36. The Commissioner accepts that FOIA gives individuals a right of access to official information with the intention of making public bodies more transparent and accountable. With that in mind, he recognises that disclosing the withheld information in this case would meet the public interest in transparency and accountability surrounding the expenditure of public funds on Prevent projects and evaluations as to their effectiveness.
37. However, balanced against this, he must consider whether disclosure would have any effects which would run counter to the public interest in safeguarding national security, and if so, whether they are outweighed by the benefits of disclosure.
38. The Commissioner considers that there is a significant public interest in the government having an effective approach to countering extremism

and terrorism. He agrees with the Home Office that its CONTEST strategy, (of which the RICU evaluations are a part), which serves that very purpose, would be weakened by disclosure of the withheld information.

39. The Commissioner considers that it is clearly the case that the public interest in disclosure does not match the weight of the public interest in safeguarding national security. It follows that his conclusion is that the balance of the public interest favours maintaining the section 24 exemption.
40. Therefore, his decision is that the Home Office was entitled to rely on section 24(1) of FOIA to refuse to disclose the withheld information.

Other matters

41. Although the complainant has not complained about the late provision of internal review in this case which exceeded the recommended 20 working days' time frame, the Commissioner has made a record of this delay.

Right of appeal

42. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

43. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
44. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Carolyn Howes
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