

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 3 February 2023

**Public Authority:** Foreign, Commonwealth & Development Office  
**Address:** King Charles Street  
London  
SW1A 2AH

#### **Decision (including any steps ordered)**

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1. The complainant has requested information about the so-called "Bethnal Green trio". The above public authority ("the public authority") refused to confirm or deny that it held information within the scope of the request and relied on sections 23 (security bodies) 24 (national security) and 27 (international relations) of FOIA in order to do so.
2. The Commissioner's decision is that the public authority is entitled to rely on both sections 23(5) and 24(2) of FOIA in order to refuse to confirm or deny that it holds the requested information. In respect of section 24(2), the balance of the public interest favours maintaining the exemption. The public authority breached section 17 of FOIA by not responding within 20 working days.
3. The Commissioner does not require further steps.

#### **Background**

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4. On 17 February 2015, three girls from Bethnal Green in London, Amira Abase, Shamima Begum and Kadiza Sultana, flew to Istanbul. They were subsequently smuggled across the Syrian Border where all three married fighters allied to the so-called Islamic State. They subsequently became known as the "Bethnal Green trio". Of the original three, only Shamima Begum is thought to still be alive.

## **Request and response**

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5. On 2 October 2022, the complainant wrote to the public authority and requested information in the following terms:

“Concerning the case of the three east London schoolgirls who disappeared to Syria in 2015: which was the first Foreign Secretary informed that they had been assisted on their journey by a Canadian intelligence asset? Who told that Foreign Secretary? What was that Foreign Secretary told? What action did the Foreign Office take as a result? Who was informed about the matter by the Foreign Office?”

6. The public authority responded on 11 November 2022. It relied on sections 23(5), 24(2) and 27(4) of FOIA to withhold the requested information. It upheld this position following an internal review.

## **Reasons for decision**

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7. The public authority has not revealed to the Commissioner whether it does or does not hold the requested information – nor did he ask it to do so. Nothing in this decision should be taken as inferring that the requested information is, or is not, held.
8. Section 23(5) of FOIA allows a public authority to refuse to confirm or deny that it holds information if giving a confirmation (or a denial) would, in itself, reveal information supplied by, supplied to or related to the work of a security body. The list of security bodies is set out at section 23(3) of FOIA and includes (amongst others) the Security Service (MI5), the Secret Intelligence Service (MI6) and Government Communications Headquarters (GCHQ).
9. Section 24(2) of FOIA allows a public authority to refuse to confirm or deny holding information where that is required for the purposes of safeguarding national security.
10. A public authority can rely on both these exemptions to refuse to confirm or deny whether particular information is held.
11. The test as to whether a disclosure would relate to a security body is decided on the normal standard of proof, that is, the balance of probabilities. In other words, if it is more likely than not that the disclosure would relate to a security body because the information requested is within what could be described as the ambit of security bodies' operations, then the exemption would be engaged.

12. Factors indicating whether a request is of this nature will include the functions of the public authority receiving the request, the subject area to which the request relates and the actual wording of the request.
13. Given that the request is predicated on an allegation that an asset working for a foreign intelligence agency had assisted British nationals to enter territory being contested by a hostile power, the Commissioner considers it more likely than not that, if the public authority did (hypothetically) hold any information, it would have been supplied to, supplied by or related to one or more security bodies.
14. With regard to section 24(2), the Commissioner again considers that this exemption should be interpreted so that it is only necessary for a public authority to show either a confirmation or a denial of whether requested information is held would be likely to harm national security.
15. In the context of section 24, Commissioner accepts that withholding information in order to ensure the protection of national security can extend to ensuring that matters which are of interest to the security bodies are not revealed. Moreover, it is not simply the consequences of revealing whether such information is held in respect of a particular request that is relevant, but the need to maintain a consistent approach to the application of section 24(2).
16. On this occasion the Commissioner is satisfied that confirming or denying that the information was held would be likely to reveal whether or not the security bodies were in any way involved in the subject matter which is the focus of this requests. The need for a public authority to adopt a position on a consistent basis is of vital importance in considering the application of these exemptions.
17. As noted above section 24 is a qualified exemption. However, the Commissioner considers that there is a significant public interest in protecting information (or the potential existence of information), where that is required for the purposes of safeguarding national security. Therefore, in the circumstances of this case the public interest in maintaining the exemption at section 24(2) outweighs the public interest in confirming whether or not the information is held.
18. The public authority breached section 17 of FOIA by not responding within 20 working days.

## Right of appeal

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19. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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 .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**