

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 July 2023

Public Authority: Foreign, Commonwealth and Development Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant has requested information relating to the Camp Zeist trial, from the Foreign, Commonwealth and Development Office (FCDO).
2. The Commissioner's decision is that the FCDO was entitled to rely on section 12(2) when refusing to confirm or deny the requested information was held. The FCDO also met its obligation under section 16 to offer advice and assistance, but failed to provide a refusal notice within 20 working days and therefore breached section 17(1) and section 10 of FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 20 July 2022, the complainant wrote to the FCDO and requested information in the following terms:

"I am looking for documents and internal correspondence concerning the verdict of the Camp Zeist trial that was announced on the 31st Jan 2001. I am interested in documents and internal correspondence about this period covering the period of Jan-Mar 2001. Abdelbaset Megrhi was found guilty of the Pan Am 103 bombing at Camp Zeist on the 31st Jan 2001. He died in Tripoli on the 20th May 2012. His obituary can be found below: <https://www.bbc.com/news/world-africa-18137896>"

5. The FCDO responded on 8 March 2023. It stated that confirming or denying whether the requested information was held would take it over the appropriate cost and time limit.
6. Following an internal review FCDO wrote to the complainant on 13 April 2023. It stated that it was upholding its original position.

Scope of the case

7. The complainant contacted the Commissioner on 21 April 2023 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine whether confirming or deny whether the requested information is held would exceed the appropriate limit.

Reasons for decision

Section 12 – Cost of compliance exceeds appropriate limit

9. Section 1 of FOIA states that: "Any person making a request for information to a public authority is entitled – (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and (b) if that is the case, to have that information communicated to him".
10. However, under section 12(2) a public authority is not required to comply with section 1(1) if the cost of establishing whether or not it holds the requested information would exceed the appropriate cost limit. The appropriate limit for the FCDO is set at £600 (24 hours work at £25 per hour).
11. The FCDO advised the Commissioner that, in order to locate the requested information, it would need to conduct a manual search of both paper and digital records. It advised that it had located 18 files in total, 12 of which were paper files and the remaining 6 files were held digitally. The FCDO advised they were able to locate the digital files using the following search terms; Zeist, Abdelbaset, Megrahi, Pan Am, Lockerbie.
12. The FCDO confirmed that all 18 files would need to be manually checked, to determine if information within the scope of the request was held. It also clarified that, although there is a combination of digital and paper records, this did not mean digital records would be duplicates of the paper records.

13. The FCDO concluded that paper records are not necessarily held in date order, meaning it would not only have to check each document for relevance to the requested information, but also ensure that located information (if any) would be within the time period requested.
14. The Commissioner queried whether the FCDO would be able to narrow the digital located information, by using search terms such as; "verdict, outcome and January-March 2001". The FCDO confirmed that additional searches using the narrowed terms had reduced the number of digital files located, however, it would still need to review both the digital and paper records for relevance. The FCDO confirmed that reviewing both paper and digital records would still take them over the appropriate cost and time limit.
15. The FCDO supported their position by advising the Commissioner that standard paper files contained approximately 100 documents. It conducted a sampling exercise and determined it would take on average 2 minutes to review each document. For the 18 files originally located, this would be 1,800 files and take up to 60 hours of work.
16. The Commissioner notes that, even with the narrowed search terms, the FCDO would still be required to review 12 paper records, with each file containing approximately 100 documents. This would still amount to 1,200 files being located and each would require a review for relevance. This would still lead to 40 hours of work for the FCDO and therefore take it over the appropriate cost and time limit.
17. The Commissioner is therefore satisfied that the FCDO was entitled to rely on section 12(2) when refusing to confirm/deny holding the requested information.

Procedural matters

18. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section, it will be taken to have complied with its obligations.
19. The Commissioner is satisfied that the FCDO has provided the complainant with advice and assistance when advising them to refine their request for information.

Right of appeal

20. 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

21. 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.
22. 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

Michael Lea
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Cheshire
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