

Freedom of Information Act 2000 (FOIA) Decision notice

Date: 19 April 2024

Public Authority: Foreign, Commonwealth and Development Office

Address: King Charles Street
London SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information relating to human rights abuses committed by the Rwandan government. The Foreign, Commonwealth and Development Office (FCDO) withheld the information citing sections 27(1)(a), (c) and (d), and sections 40(2) and 40(3A)(a)
2. The Commissioner's decision is that section 27 is engaged but that the public interest lies in favour of disclosure.
3. The Commissioner requires FCDO to take the following steps to ensure compliance with the legislation.
 - Disclose the information requested, subject to appropriate redactions under section 40(2).
4. The public authority must take these steps within **30** calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 20 April 2023, the complainant wrote to FCDO and requested information in the following terms:

“To follow this up, is it possible that I could also request whether the Foreign Office has had any evidence of human rights abuses being committed by the Rwandan Government in the period from January 2021 until now?”
6. FCDO responded on 15 August 2023 and neither confirmed nor denied (NCND) holding the requested information citing sections 27(4)(a) (International relations), 38(2), 40(5A) and 40(5B) (personal information) of FOI.
7. Following an internal review FCDO wrote to the complainant on 27 November 2023 and maintained its position.
8. During the course of the Commissioner’s investigation FCDO amended its position and withdrew reliance on all the exemptions previously cited, confirming it held some information within the scope of the request. However, it then sought to rely on sections 27(1)(a), (c) and (d), and sections 40(2) and 40(3A)(a).

Scope of the case

9. The complainant initially contacted the Commissioner on 4 November 2023 as the internal review was overdue. Once this had been completed the Commissioner proceeded to investigate the complaint about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to determine if FCDO is entitled to rely on any of the exemptions it has cited.

Reasons for decision

Section 27 – international relations

11. Section 27(1) states:

(1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice—

- (a) relations between the United Kingdom and any other State,
 - (b) relations between the United Kingdom and any international organisation or international court,
 - (c) the interests of the United Kingdom abroad, or
 - (d) the promotion or protection by the United Kingdom of its interests abroad.
12. In its initial response to the complainant FCDO explained that to give a statement of the reasons why the exemptions applied would, in itself, involve the disclosure of exempt information.
13. FCDO further explained that an extensive assessment of the human rights situation in Rwanda was published online by the Home Office in January 2024¹. It continued to explain that immigration policy is not owned by FCDO and so the Home Office would be the correct department to which to address questions about the Migration and Economic Development Partnership and the published Country Information Note.
14. FCDO maintained section 27 applied to all the information it held.
15. The Commissioner's guidance² on section 27 acknowledges that there is some overlap between the different provisions set out in the exemption. It also recognises that the interests of the UK abroad, and the UK's international relations, cover a broad range of issues.
16. In order for a prejudice based exemption like section 27 to be engaged, the Commissioner considers that three criteria must be met:
- First, the actual harm which the public authority alleges would, or would be likely, to occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption.
 - Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is

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https://assets.publishing.service.gov.uk/media/65a15b7369fbd3000d25c04f/CIN_RWA_Human_rights2.pdf

² [Section 27 - International relations | ICO](#)

designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance.

- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – i.e., disclosure would be likely to result in prejudice or disclosure would result in prejudice. If the likelihood of prejudice occurring is one that is only hypothetical or remote the exemption will not be engaged.
17. Furthermore, the Commissioner has been guided by the comments of the Information Tribunal which suggested that, in the context of section 27(1), prejudice can be real and of substance “if it makes relations more difficult or calls for a particular damage limitation response to contain or limit damage which would not have otherwise been necessary.”
 18. Clearly, there is the potential for relations between the UK and Rwanda to be damaged should information be disclosed that refers to human rights abuses. With regard to the third limb FCDO did not explicitly state the level of prejudice it considers would apply. Therefore the Commissioner considers the lower threshold of ‘would be likely’ is appropriate in this case.
 19. He therefore finds that the exemption is engaged and will go on to consider the public interest test.

Public interest test

FCDO position

20. In its response of 19 May 2023, FCDO acknowledged the public interest in openness in public affairs and in evaluating the foreign policy of the Government. However, it found that there was a stronger public interest in the UK successfully pursuing its national interests. It considered that the public interest against disclosure in this instance is a strong one.
21. FCDO provided a further response on 4 March 2024 in which it stated factors in favour of disclosure include the strong public interest in transparency and accountability. It acknowledged that there is public interest in knowing what information the FCDO holds about the Human Rights situation in Rwanda.
22. However, Section 27(1) recognises that the effective conduct of international relations depends upon maintaining trust and confidence between governments.
23. If the United Kingdom does not maintain this trust and confidence, its ability to protect and promote UK interests through international relations will be hampered, which will not be in the public interest. For

these reasons it considered that the public interest in maintaining this exemption outweighs the public interest in disclosing it.

Complainant's position

24. In their request for internal review the complainant stated:

"The information I requested related to whether the government has any evidence to suggest Rwanda is not a safe country [sic]. I believe that this has an enormous public interest aspect to it due to the ongoing questionable statements the government keeps making about the safety of Rwanda under the current regime there."

The Commissioner's decision

25. In considering this case the Commissioner has taken note of the sensitivity and enormous political debate around this issue and carried out extensive research to establish what information is already in the public domain.

26. The Commissioner also notes that by confirming information within scope of the request is held, FCDO has implied that it relates to human rights abuses in Rwanda.

27. Having carried out his own research the Commissioner is aware of a significant number of reports and articles already in the public domain:

<https://www.amnesty.org/en/location/africa/east-africa-the-horn-and-great-lakes/rwanda/report-rwanda/>

[World Report 2023: Rwanda | Human Rights Watch \(hrw.org\)](#)

<https://inews.co.uk/news/politics/top-tories-rwanda-links-raise-questions-over-its-selection-as-uk-asylum-partner-2810600>

<https://www.hrw.org/world-report/2024/country-chapters/rwanda>

<https://liveapp.inews.co.uk/2024/03/13/home-office-begins-calling-failed-asylum-seekers-offering-3k-to-go-to-rwanda/content.html>

[Safety of Rwanda \(Asylum and Immigration\) Bill: factsheet - GOV.UK \(www.gov.uk\)](#)

["Join Us or Die": Rwanda's Extraterritorial Repression | HRW](#)

[UK-Rwanda treaty: provision of an asylum partnership \(accessible\) - GOV.UK \(www.gov.uk\)](#)

<https://www.hrw.org/news/2022/03/16/rwanda-wave-free-speech-prosecutions>

<https://igihe.com/amakuru/u-rwanda/article/u-rwanda-rwanyomoje-human-rights-watch-yateye-icyuhagiro-abarimo-cyuma-bari-mu>

<https://www.bbc.com/gahuza/amakuru-60762605>

of particular interest is <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/rwanda/>

28. Although the Commissioner accepts that if any information in scope of the request is disclosed by FCDO then this would be likely to prejudice the UK's relationship with Rwanda, he notes that FCDO has not provided any specific arguments relating to what UK interests may be damaged elsewhere nor described any national interests being pursued. Consequently, the Commissioner does not consider any weight can be attached to parts (1)(c) and (d) of the exemption.
29. Before coming to his decision, the Commissioner compared the withheld information with that already in the public domain and considers there is nothing contained in the three withheld documents that is not already publicly available.
30. Nevertheless, the Commissioner has considered the potential damage between the UK and Rwanda and balanced this against the potential damage to the UK's relationship with other countries. It is the Commissioner's view that further international relations and interests abroad may be damaged, should it emerge that it knowingly sent vulnerable people to a country with a poor record on human rights. This would not be in the best interests of the UK.
31. He has also considered that the UK population has to trust its government to make the right decisions in their best interests, and transparency is crucial in maintaining this trust.
32. Taking all the above into account, and the content of the information, the Commissioner finds that the public interest in disclosure outweighs that in maintaining the exemption.
33. It is therefore his decision that FCDO should disclose the requested information.
34. The complainant does not appear to have challenged the application of section 40(2) and so this has not been considered in this decision notice.

Right of appeal

35. 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

36. 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.
37. 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

Susan Duffy
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