

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2013

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

Decision (including any steps ordered)

1. The complainant requested a file titled "HO45/25743 War: Defence Regulation 18B Detainees, 1941-1944, 1951-1952 & 1963", listed by the National Archives but retained by the Home Office. The Home Office refused to disclose this information and cited the exemption provided by section 23(1) (information relating to, or supplied by, bodies dealing with security matters) of the FOIA.
2. The Commissioner's decision is that the Home Office applied section 23(1) correctly and so it is not required to disclose this information.

Request and response

3. On 29 June 2012 the complainant wrote to the Home Office and requested information in the following terms:

"The following document is listed in the catalogue at the National Archives, but is shown as being still held by your department:

HO45/25743 War: Defence Regulation 18B Detainees, 1941-1944, 1951-1952 & 1963.

Under Freedom of Information, I would like to have the document released, or if that is not possible, for it to be checked for the following person: George William Gorman, born 1888, died 1956 in London, journalist."

4. The Home Office responded on 27 July 2012. It stated that the request was refused and cited the exemptions provided by sections 23(1) (information relating to, or supplied by, security bodies) and 40(2) (personal information) of the FOIA.
5. The complainant responded on 14 August 2012 and requested an internal review. The complainant received the response giving the outcome of the internal review on 26 September 2012. The refusal of the request under sections 23(1) and 40(2) was upheld.

Scope of the case

6. The complainant contacted the Commissioner on 28 September 2012 to complain about the refusal of his information request. At this stage the complainant stressed that his interest extended only to information about the individual named in his request and that he did not believe that any harm would be caused through disclosure of information relating to that individual.

Reasons for decision

Section 23

7. The Home Office has cited the exemption provided by section 23(1) of the FOIA. This provides that information that relates to, or was supplied by, any of the bodies specified in section 23(3) is exempt. This exemption does not refer to prejudice and is not qualified by the public interest. This means that if information falls within the class specified in section 23(1), it is absolutely exempt.
8. In this case a senior representative of the Commissioner with the appropriate security clearance visited the Home Office and viewed the requested information. In this way it was verified that this information all relates to, and some of it was supplied by, one of the bodies specified in section 23(3). This information is, therefore, exempt under section 23(1) and the Home Office was not required to disclose it.
9. Whilst the Commissioner can understand the complainant's view that disclosure of this information would be unlikely to result in harm given its age, section 23(1) does not make any reference to harm. As explained above, if as a matter of fact the information relates to or was supplied by any of the bodies listed in section 23(3), it is exempt and the possible impact of disclosure is not relevant. This also means that

the Home Office is not required to confirm or deny whether the individual named in the request is mentioned within this information.

10. As this conclusion on section 23(1) covers the entirety of the information in question, it has not been necessary to go on to also consider section 40(2).

Right of appeal

11. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. 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.
13. 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

**Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**