

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 November 2022

Public Authority: House of Commons
Address: London
SW1A 0AA

Decision (including any steps ordered)

1. The complainant requested information about the numbers and ultimately, types of operational CCTV cameras in the Houses of Parliament. The House of Commons (the 'HOC') responded and refused to confirm or deny that it held the requested information, citing the 'neither confirm or deny' or 'NCND' provisions in sections 24(2) (national security), 31(3) (the exemption for law enforcement), and 38(2) (health and safety) of FOIA. It said that the associated public interest tests for all three exemptions favoured neither confirming or denying whether the information is held.
2. The Commissioner's decision is that the HOC was entitled to NCND whether the requested information was held by virtue of section 24(2) of FOIA for the reasons set out in this notice. As he has found section 24(2) to have been properly applied, the Commissioner has not deemed it necessary to consider the HOC's reliance on sections 31(3) or 38(2) of FOIA.
3. No steps are required as a result of this decision.

Request and response

4. On 8 April 2022, the complainant wrote to the HOC and requested information in the following terms:

"Could you please tell me how many Hikvision and how many Dahua CCTV cameras are currently operational in the Houses of Parliament?"

I would like all information in electronic format...".

5. The HOC responded on 12 April 2022. It clarified that the Houses of Parliament are made up of both the HOC and the House of Lords but explained that "CCTV is provided and managed on a bicameral basis" so its response covers the whole of the parliamentary estate.
6. The HOC refused to confirm or deny that it held the requested information, citing the 'NCND' provisions in sections 31(3) (the exemption for law enforcement), 24(2) (national security) and 38(2) (health and safety). It said that the associated public interest tests for all three exemptions favoured neither confirming or denying whether the information is held.
7. The complainant requested an internal review on 12 April 2022 in which he said he no longer required the numbers of CCTV cameras in operation on the Parliamentary Estate; instead he wanted to know whether they include any cameras made by Hikvision or Dahua.
8. Following its internal review the HOC wrote to the complainant on 12 May 2022. It maintained its original position in relation to the complainant's revised request and refused to confirm or deny whether that information was held.

Reasons for decision

Section 24 – national security

9. The Commissioner has first considered the HOC's reliance on section 24(2) of FOIA. The HOC has refused to confirm or deny whether the CCTV cameras on the Parliamentary Estate include those made by Hikvision or Dahua.
10. Under section 1(1)(a) of FOIA, anyone who requests information from a public authority is entitled to be told if the authority holds the information ('the duty to confirm or deny').
11. However, under section 24(2) of FOIA, the duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice national security.
12. The issue that the Commissioner has to consider is not one of disclosure of any requested information that may be held, rather it is solely the issue of whether or not the HOC is entitled to NCND whether it holds any information of the type requested by the complainant.

13. Section 24(2) is engaged if the exemption from the duty to confirm or deny is reasonably necessary for the purpose of safeguarding national security. The Commissioner considers that section 24(2) should be interpreted so that it is only necessary for a public authority to show that **either** a confirmation **or** a denial of whether requested information is held would be likely to harm national security. It is not necessary to show that harm would flow from both.
14. The Commissioner has considered the arguments put forward by the HOC and is satisfied it has evidenced real and specific threats that a confirmation or denial as to which types of CCTV security cameras are used would pose a risk to national security. He therefore finds that section 24(2) of FOIA is engaged.

Public interest test

15. Section 24 is subject to the public interest test, as set out in section 2 of FOIA. This means that although section 24 is engaged, confirmation or denial must still be provided unless, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in confirming or denying.

Public interest arguments in favour of confirming or denying whether the requested information is held

16. The complainant argued that the public have a right to know what security systems are being used by the government when those systems may contradict the principles of a democratic system. He also said that some have raised concerns about the security of those systems in regards to China, and that if the cameras do pose a security threat, the public needs to be able to make informed decisions about the effectiveness of the government's ability to maintain security.
17. The HOC said:

“We acknowledge that there is a specific public interest, beyond the general public interest in transparency, in the use of cameras from these particular suppliers, relating both to their possible involvement in human rights abuses in China, and to the security of their products. In that context, you may be aware that the independent Biometrics and Surveillance Camera Commissioner has recently written to Ministers asking them to clarify their position on procuring cameras from Hikvision.”

Public interest arguments in favour of maintaining the exemption

18. Against confirming or denying whether the requested information is held, the HOC argued:

“However, this public interest in disclosure needs to be balanced against the public interest in protecting the parliamentary estate and its occupants and visitors from attack. A successful attack on the Houses of Parliament has the potential not only to lead to injury and loss of life, but to cause significant disruption to the governance of the nation. The security of Parliament is therefore a matter of national security. Information about the suppliers of Parliament’s CCTV cameras could, taken together with information which is already in the public domain, or information which may be known to people with more specialist knowledge of CCTV systems, allow individuals to obtain more detailed information about the technical specifications and operation of those cameras. This is known as the “mosaic effect”. Information obtained in this way could be useful to individuals planning to attack the parliamentary estate either physically or digitally. Even denying that Parliament uses CCTV from certain manufacturers could, by a process of elimination and the mosaic effect, make it possible to deduce which manufacturers supply CCTV equipment to Parliament.”

Balance of the public interest

19. The Commissioner recognises that there is a public interest in disclosure of this information, owing to its subject matter. The Commissioner’s view is that any information that concerns the HOC’s efforts to ensure the safety and security of its IRC estate will improve the public’s confidence and understanding.
20. Turning to the public interest in favour of maintenance of the exemption, in any situation where section 24(2) is found to be engaged, the Commissioner must recognise the public interest inherent in this exemption. Safeguarding national security is a matter of the most fundamental public interest; its weight can be matched only where there are also fundamental public interests in favour of confirmation that the requested information is held.
21. In this case the public interest in the maintenance of the exemption concerns preserving the ability of the Parliamentary Estate and to provide effective security for those who work there and visitors, together with the wider public, which may be put at risk were its security arrangements widely known. Further, the cameras offer protection to prominent individuals, including those carrying out the work of the Government. Clearly, that public interest weighs very heavily in favour of maintaining the exemption.
22. In conclusion, given the subject matter of the requested information, the Commissioner has recognised the valid public interest in favour of disclosure. He does not, however, believe that it matches the weight of

the public interest in avoiding a disclosure that could be detrimental to national security. The finding of the Commissioner is, therefore, that the public interest in the maintenance of the exemption outweighs the public interest in disclosure and so the HOC was not obliged to confirm or deny whether the requested information is held.

23. As the Commissioner has determined that this exemption is properly engaged he has not found it necessary to consider the other exemptions cited.

Right of appeal

24. 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

25. 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.
26. 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

Laura Tomkinson
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