

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2016

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

Decision (including any steps ordered)

1. The complainant requested information relating to Home Office vehicles. The Home Office disclosed some of the requested information, but withheld the remainder and cited the exemption provided by section 31(1)(a) (prejudice to the prevention or detection of crime) of the FOIA.
2. The Commissioner's decision is that the Home Office cited section 31(1)(a) correctly, so it was not obliged to disclose the withheld information.

Request and response

3. On 29 July 2015, the complainant wrote to the Home Office and requested information in the following terms:

"Could you provide me with a complete Fleet List for all of your marked vehicles;

Please could you also state for each vehicle;

- Vehicle Make & Model
- Role (IE: SNT, Beat, Patrol, CCTV, ETC.)
- Location it's based at
- Registration Plate
- Internal Fleet Number / Designation
- Whether a camera system is fitted (if so, what type, CCTV, ProVida ETC)".

4. After sending an earlier holding response, the Home Office responded substantively on 24 September 2015. The Home Office disclosed a list of vehicle models and stated that it did not hold any information within the scope of the request for "*Internal Fleet Number / Designation*". It refused to disclose the remainder of the information requested, citing the exemptions provided by the following sections of the FOIA:

31(1)(a) (prejudice to the prevention or detection of crime)

31(1)(b) (prejudice to the apprehension or prosecution of offenders)

31(1)(c) (prejudice to the administration of justice)
5. The complainant responded on 25 September 2015 and requested an internal review. The Home Office responded with the outcome of the review on 15 January 2016. The conclusion of this was that the refusal under sections 31(1)(a), (b) and (c) was upheld.

Scope of the case

6. The complainant contacted the Commissioner on 1 February 2016 to complain about the part refusal of his information request. The complainant indicated that he did not agree with the reasoning given by the Home Office for withholding some of the information he had requested.
7. During the Commissioner's investigation of this case, the Home Office cited two further exemptions, in addition to those it had relied on previously:

31(1)(e) (prejudice to the operation of the immigration controls)

38(1)(a) and (b) (endangerment to health and safety)

Reasons for decision

Section 31

8. The Home Office has cited sections 31(1)(a), (b), (c) and (e). The Commissioner has focussed here on section 31(1)(a), which provides an exemption for information the disclosure of which would, or would be likely to, prejudice the prevention or detection of crime. Consideration of this exemption involves two stages; first the exemption must be engaged as prejudice relevant to the exemption would be at least likely to result. Secondly, this exemption is qualified by the public interest,

which means that if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure, the information must be disclosed.

9. Covering first whether this exemption is engaged, the Commissioner has considered whether prejudice *would be likely* to result, rather than whether it *would* result. For the Commissioner to accept that prejudice would be likely to result, there must be a real and significant chance of that outcome occurring, rather than it being a remote possibility.
10. The arguments from the Home Office concerned the requirement to maintain a level of confidentiality around exactly where it targets its resources. The Home Office stated that the information within the scope of the request related to vehicles used for border security and immigration enforcement. It argued that full disclosure of the requested information would provide information that would enable the monitoring of where border security and immigration enforcement activities are being targeted, which in turn would be likely to lead to evasion or disruption of those activities.
11. The Home Office gave a description of what it believed would be likely to occur following disclosure. It stated that intelligence assessments suggested that criminal gangs monitor the work of the Home Office in border security. It suggested that disclosing the requested information would assist with the development of a picture of where border security efforts are targeted, and thus with the evasion of those efforts.
12. The Home Office also referred to the sensitive nature of some immigration enforcement operations, such as the removal of families, and to the possibility of there being parties who would attempt to disrupt such operations. It argued that disclosing information that would assist with the identification and monitoring of Home Office vehicles, would assist those who would seek to disrupt immigration enforcement operations.
13. Turning to the Commissioner's view on these arguments, he notes first that these arguments are relevant to section 31(1)(a); assisting parties attempting to evade or disrupt border security and immigration enforcement work would amount to prejudice to the prevention of crime. The next step is to consider whether there is a real and significant likelihood of that outcome occurring as a result of disclosure of the information in question.
14. The Commissioner's view is that it is clearly the case that there are those who would seek to disrupt or evade the work of the Home Office in this area. As argued by the Home Office, this would include a criminal element, who would seek to evade border security efforts. On the issue

of whether there would be those who would take action to disrupt immigration enforcement work, the Home Office cited media coverage as evidence of this¹.

15. The next issue is whether there is a causal link between disclosure of the withheld information and the prejudice argued by the Home Office, in other words whether disclosure of that information would make this potential harm to the work of the Home Office more likely. On this point the complainant would argue that, as he has specifically requested information relating to *marked* vehicles, prejudice would be no more likely. His argument would be that operations carried out using marked Home Office vehicles are already carried out publicly and there is already potential for them to be monitored as a result. According to that argument, disclosure of the requested information would have no impact on the likelihood of prejudice.
16. The Commissioner's view, however, is that disclosure of the withheld information would place significant and meaningful further information into the public domain. His view is that disclosing, in addition to the list of make and model already provided, the role, registration number, location and whether there is a camera fitted in relation to each vehicle would give an insight into how the Home Office targets its resources in this area that is not currently available as a result of these vehicles being marked. He also believes that this additional information could be utilised in ways that would be likely to result in the prejudice described above.
17. The Commissioner finds, therefore, that there is a real and significant chance of disclosure of the information in question resulting in prejudice relevant to section 31(1)(a), hence this exemption is engaged.
18. Having found that the exemption is engaged, the next step is to consider the balance of the public interests. In forming a conclusion on the balance of the public interests in this case, the Commissioner has taken into account the general public interest in the openness of the Home Office and the public interest in avoiding the prejudice that he has accepted above would be likely to result, as well as factors that are specific to this case.
19. Covering first factors in favour of disclosure of the information, the Commissioner's view is that there is a strong public interest in

¹ <http://www.bristolpost.co.uk/Immigration-centre-blaze-suspected-arson/story-19383774-detail/story.html>

information relating to border security and immigration enforcement. These are issues that are perennially high on the political agenda and at the current time are the subject of particular focus. Also, as mentioned above, immigration enforcement can be a sensitive and controversial matter.

20. In general, therefore, there is a strong public interest in information that relates to immigration and border security. This interest extends to some extent to the information in question here in that disclosure would place additional information in the public domain concerning the capabilities of the Home Office in this area, and how it has spent public funds on this aspect of its work.
21. The Commissioner does not, however, believe that this public interest is particularly weighty in relation to much of the information requested. The Home Office disclosed the make and model of its vehicles to the complainant. Whilst information on the role and location of each vehicle is of some public interest due to the insight that this would provide into how the Home Office is utilising its resources in this area, the Commissioner does not believe that there is any particular public interest in the remainder of the withheld information. He is also of the view that any public interest there is in this information is not of the same weight as it would be in relation to information that relates more closely to border security and immigration related matters that would more generally be considered of public interest.
22. Turning to factors in favour of maintenance of the exemption, the key issue here is the public interest inherent in the exemption; that is the public interest in avoiding the likelihood of prejudice to the prevention or detection of crime that the Commissioner has found above would be a likely outcome from disclosure of this information. That border security and immigration enforcement are matters of such importance increases the public interest in avoiding disruption to the efforts of the Home Office in this area. The Commissioner believes that this public interest is a factor in favour of maintenance of the exemption of considerable weight.
23. In conclusion, the Commissioner has found public interest in favour of disclosure on the basis of the subject matter of this information, albeit that this public interest only extends to some of the withheld information and is not as weighty as would be the case in relation to information more closely related to the aspects of border security and immigration enforcement that are of regular public interest. As a result he believes that public interest is not as weighty as the public interest in favour of avoiding prejudice to the prevention of crime. His finding is, therefore, that the public interest in the maintenance of the exemption outweighs

the public interest in disclosure and so the Home Office was not obliged to disclose the requested information.

24. As a result of this finding, it has not been necessary to go on to also consider any of the other exemptions cited by the Home Office.

Right of appeal

25. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

26. 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.
27. 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

Ben Tomes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF