

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 20 March 2018

**Public Authority:** Cleveland Fire Brigade  
**Address:** Cleveland Fire Brigade Headquarters  
Training & Admin Hub  
Endeavour House  
Queens Meadow Business Park  
Hartlepool  
TS25 5TH

#### Decision (including any steps ordered)

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1. The complainant requested information relating to the precise location of fire hydrants within the Hartlepool Boundary.
2. Cleveland Fire Brigade refused to provide the requested information citing section 24(1) of the FOIA (national security).
3. The Commissioner's decision is that Cleveland Fire Brigade was entitled to rely on section 24(1) to refuse to disclose the requested information.
4. The Commissioner requires no steps to be taken as a result of this decision.

#### Request and response

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5. On 4 October 2017, the complainant wrote to Cleveland Fire Brigade and requested information in the following terms:

*"Please provide information detailing the location of all fire hydrants within the Hartlepool Boundary.*

*It would be appreciated if the information could be in the form of an excel spreadsheet and include street name, northings and eastings".*

6. The request was made via '*whatdotheyknow*'.
7. Cleveland Fire Brigade responded on 11 October 2017. It refused to provide the requested information citing section 24(1) of the FOIA (national security).
8. Following an internal review the Cleveland Fire Brigade wrote to the complainant on 13 November 2017 maintaining its original position.

## Scope of the case

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9. The complainant contacted the Commissioner on 12 December 2017 to complain about the way his request for information had been handled.
10. Although the Commissioner understands from the complainant that some fire brigades would appear to have complied with similar requests, she does not consider that this sets a precedent for disclosure under the FOIA. In the Commissioner's view, each case must be considered on its merits.
11. During the course of her investigation, Cleveland Fire Brigade confirmed its application of section 24(1) of the FOIA to the requested information.
12. The analysis below considers Cleveland Fire Brigade's application of section 24(1) of the FOIA to the requested information.

## Reasons for decision

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### *Section 24 national security*

13. Section 24(1) of the FOIA provides that:

*'Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) (i.e. the disclosure of requested information) is required for the purposes of safeguarding national security'.*

14. There are two steps to consideration of this exemption. First the exemption must be engaged due to a national security requirement. Secondly, this exemption is qualified by the public interest, which means that the information must be disclosed if the public interest in the maintenance of the exemption does not outweigh the public interest in disclosure.
15. The Commissioner interprets 'required' as used in section 24 to mean 'reasonably necessary'. The exemption will, therefore, be engaged if

withholding the information from disclosure is reasonably necessary for the purposes of national security. This means that it is not sufficient for the requested information to relate to national security; there must be a clear basis for arguing that disclosure of it would have an adverse effect on national security.

16. The Commissioner has published guidance on section 24 of the FOIA<sup>1</sup>. In that guidance she states:

*"In broad terms section 24(1) allows a public authority not to disclose information if it considers releasing the information would make the UK or its citizens more vulnerable to a national security threat".*

17. Although the FOIA does not contain a definition of national security the Information Tribunal<sup>2</sup> has noted the following:

- 'national security' means the security of the United Kingdom and its people;
- the interests of national security are not limited to actions by an individual which are targeted at the UK, its system of government or its people;
- the protection of democracy and the legal and constitutional systems of the state are part of national security as well as military defence;
- action against a foreign state may be capable indirectly of affecting the security of the UK ; and
- reciprocal co-operation between the UK and other states in combating international terrorism is capable of promoting the United Kingdom's national security.

*Is the exemption engaged?*

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<sup>1</sup> [https://ico.org.uk/media/for-organisations/documents/1174/safeguarding\\_national\\_security\\_section\\_24\\_foi.pdf](https://ico.org.uk/media/for-organisations/documents/1174/safeguarding_national_security_section_24_foi.pdf)

<sup>2</sup> <http://informationrights.decisions.tribunals.gov.uk//DBFiles/Decision/i24/Baker.pdf>

18. In support of his view that the information should be disclosed, the complainant told Cleveland Fire Brigade:

*"I believe your "national security" excuse to be implausible, noting that other fire services have recently provided such information, and that fire hydrants on the street are clearly and prominently identified".*

19. Cleveland Fire Brigade told the complainant:

*"... disclosing the requested information relating to Fire Hydrant Locations may put information into the public domain that may be used to carry out an attack on the water supply infrastructure. This poses a threat to national security given recent events".*

20. It argued that if there was a security breach and the water supplies were to be compromised, this could have grave consequences for the public.

21. Similarly, in correspondence with the Commissioner, Cleveland Fire Brigade argued that disclosure of the requested locations:

*"... would make it available to, or bring to the attention of, terrorist groups or others with malicious intent to attack our water infrastructure".*

22. The Commissioner has considered Cleveland Fire Brigade's reasons for considering that section 24 applies in this case. The Commissioner accepts that, by listing the location of connection points to the water supply, disclosure of the withheld information would assist in an attack such as that described by Cleveland Fire Brigade. She accepts that an attack on the water infrastructure would be harmful to national security and therefore that this argument relates to the interests that section 24(1) is intended to protect.

23. The Commissioner is mindful of the complainant's view that the location of hydrants is already available due to them being clearly visible.

24. However, from the evidence she has seen, the Commissioner accepts that the provision of a comprehensive list of the precise location of every hydrant in the Hartlepool area would place into the public domain more information than is available through hydrants being visible.

25. The Commissioner acknowledges that, in order to engage the exemption, it is not necessary to show that disclosing the information would lead to a direct or immediate threat to the UK. The exemption applies where withholding the information is *"required for the purposes of safeguarding national security"*.

26. Although Cleveland Fire Brigade did not present any evidence that an attack was being planned, the Commissioner accepted that water hydrants were a realistic target and that the explanation of how the information could be used was plausible.
27. Having considered the matter, the Commissioner is satisfied that an attack on the water supply infrastructure would be in the domain of national security, that the information in question would assist in the planning of such an attack and that it is plausible that an attack of this kind could be attempted.
28. Taking all the above into account, the Commissioner's view is that in this case, exemption from the duty to disclose in relation to the information in question is reasonably required for the purposes of national security. She therefore considers that the exemption provided by section 24(1) of FOIA is engaged.

*The public interest test*

29. Section 24 is a qualified exemption and therefore the Commissioner must consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
30. With respect to its consideration of the public interest in this case, Cleveland Fire Brigade advised both the complainant and the Commissioner that it had referred to previous cases considered by the Commissioner, including one concerning the disclosure of information about fire hydrants<sup>3</sup>.

*Public interest arguments in favour of disclosing the requested information*

31. The complainant did not put forward specific public interest arguments in favour of disclosing the requested information. His generic arguments that the information should be provided related to the provision of such information by other fire services.
32. In correspondence with the complainant, Cleveland Fire Brigade confirmed its commitment to openness and accountability, arguing, however, that it must balance that against its responsibility for public safety in both the county and nationally.

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<sup>3</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560234/fs\\_50585724.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1560234/fs_50585724.pdf)

*Public interest arguments in favour of maintaining the exemption*

33. The public interest arguments Cleveland Fire Brigade put forward in favour of maintaining the exemption concerned the need to protect the requested information due to the nature of the information.
34. In its submission to the Commissioner, Cleveland Fire Brigade described the requested information as '*risk sensitive*'. It re-iterated its concerns about the risk of making such information available to, or bringing it to the attention of, those with an intent to attack the water supply infrastructure.
35. Cleveland Fire Brigade told the Commissioner that it had '*grave concerns*' that, if the information was disclosed, its ability to protect its fire-fighters and local communities '*would be seriously compromised*'. Clearly, this would not be in the public interest.

*Balance of the public interest arguments*

36. In forming a conclusion on the balance of the public interest in this case, the Commissioner has taken into account the considerable public interest inherent in the maintenance of the particular exemption, as well as the specific factors that apply in relation to the requested information.
37. Safeguarding national security is a matter of the most fundamental public interest; its weight can be matched only where there are also equally fundamental public interests in favour of disclosure of the requested information.
38. The Commissioner acknowledges the public interest in disclosure in this case in order to promote the openness and transparency of Cleveland Fire Brigade.
39. However, she considered that the public interest in protecting national security in this case substantially outweighed the public interest in disclosure.
40. Her conclusion is therefore that the public interest in the maintenance of the exemption outweighs the public interest in disclosure and therefore Cleveland Fire Brigade was not obliged to disclose the requested information.

## Right of appeal

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41. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

42. 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.
43. 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 .....**

**Deborah Clark  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**