

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 December 2023

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information relating to meetings between the UK Prime Minister and Gautam Adani in October 2021 and April 2022. The Cabinet Office refused the request, citing section 27 (prejudice to international relations) and section 35 (formulation of government policy).
2. The Commissioner's decision is that the exemption at section 27 is engaged in respect of all of the requested information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The Commissioner does not require any steps to be taken.

Request and response

3. On 14 June 2022, the complainant wrote to the Cabinet Office and requested information in the following terms:

"Under the Freedom of Information Act 2000, I would like to submit the following request for information.

Please confirm whether you hold any of the following recorded information relating to the following specified events, and to then disclose copies of the material specified beneath in each case:

1. Prime Minister Boris Johnson's meeting with Gautam Adani at Adani HQ in Gujarat on April 21st 2022.
2. Prime Minister Boris Johnson's meeting with Gautam Adani at the Global Investment Summit at the Science Museum on 19th October 2021.
3. The announcement of Adani Green Energy's sponsorship of the Science Museum's new 'Energy Revolution' Gallery on 19th October 2021.

In each case, please disclose copies of:

- Any briefing notes or readouts that were created for the events specified
 - Internal correspondence within the Cabinet Office which discusses arrangements for the events specified above
 - Correspondence with staff from the Adani Group (or its subsidiaries) concerning arrangements for the events above, including both relevant ministerial and management team members that were involved in any such correspondence".
4. The Cabinet Office responded on 13 July 2022 and stated that the information requested was exempt under sections 27(1)(c) and (d) and 35(1)(a) and (d) of the FOIA.
 5. On 26 August 2022 the complainant requested an internal review of the handling of their request.
 6. The Cabinet Office provided the outcome of its internal review on 16 November 2022 and upheld its position that the exemptions at 27(1)(c) and (d) and 35(1)(a) and (d) applied to the information requested.

Scope of the case

7. The complainant contacted the Commissioner on 8 December 2022 to complain about the way their request for information had been handled.
8. During the course of the Commissioner's investigation, the Cabinet Office stated that it also wished to rely on sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c) (prejudice to the effective conduct of public affairs) in the alternative to section 35 of the FOIA.

9. The scope of the Commissioner's investigation is to determine whether the Cabinet Office should disclose the information requested.

Reasons for decision

Section 27 - prejudice to international relations

10. Section 27(1) provides that:

"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."

11. In order for a prejudice based exemption, such as section 27(1), to be engaged the Commissioner considers that three criteria must be met:

- Firstly, the actual harm or prejudice which the public authority alleges would, or would be likely to, occur 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 confirmation or denial and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance; and
- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied on by the public authority is met – ie, disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice.

12. In relation to the threshold of "would be likely to prejudice" the Commissioner considers that the chance of prejudice occurring must be more than a hypothetical possibility; rather there must be a real and significant risk. However the anticipated prejudice does not need to be more probable than not.

The Cabinet Office's position

13. The Cabinet Office confirmed that it has relied on the exemptions at section 27(1)(c) and section 27(1)(d) of FOIA in respect of all the requested information. It considers that disclosure of the information would be likely to prejudice the interests of the UK abroad, together with the promotion and protection of those interests.
14. The Cabinet Office argued that Mr Adani would have had a reasonable expectation that the important matters that were discussed at the meetings would remain confidential and he would not have expected details of his meetings with the Prime Minister to be disclosed into the public domain, so soon after the meetings took place.
15. In relation to section 27(1)(c) the Cabinet Office argued that a consequence of disclosure of the withheld information would be that Mr Adani, and other prominent business individuals in India would be likely to either refuse to discuss official business with representatives of the UK Government, or it would severely inhibit any such discussions if they considered there was a risk that their views and comments could be disclosed into the public domain. The Cabinet Office is of the view that disclosure would undermine the confidence that Mr Adani has in his dealings with the UK. This could lead in turn to Mr Adani not considering the UK to be a trusted partner and would threaten any potential for investment in the UK.
16. With regard to section 27(1)(d) the Cabinet Office argued that disclosure of the requested information would "more broadly undermine UK interests in south Asia at a time when the UK is endeavouring to strengthen commercial bonds with India. This has found expression in the 2030 Roadmap for India-UK future relations, where the part on trade and prosperity covers (among other things), financial cooperation, investment and economic co-operation¹".

The Commissioner's position

17. The Commissioner notes that this exemption does not necessarily focus on the importance, subject or content of the requested information, but on whether UK interests abroad, or the international relations of the UK

¹ <https://www.gov.uk/government/publications/india-uk-virtual-summit-may-2021-roadmap-2030-for-a-comprehensive-strategic-partnership/2030-roadmap-for-india-uk-future-relations>

would be prejudiced through the disclosure of the information. Thus section 27(1) focusses on the effects of the disclosure.

18. In assessing the prejudice that would, or would be likely to be caused to the UK's relations with another state, the Commissioner is required to consider the wider context and long-term consequences in which the disclosure of the requested information would result.
19. The complainant argued that the Cabinet Office's representations in support of its application of the exemptions cited to be "generic, speculative and non-specific in nature". They consider that the arguments put forward have not been tailored to the specific information which has been requested. The Commissioner can confirm that the Cabinet Office provided him with detailed and specific submissions to explain why, in its view, disclosure of the withheld information would be likely to undermine the UK's international relations and in turn lead to a negative impact on the UK's ability to protect and promote its interests in the region. The Commissioner cannot elaborate on the nature of these submissions in this decision notice without revealing information that is itself considered to be sensitive. However, he has taken the representations into account when reaching a decision in this case. The Commissioner can also confirm that he has inspected the requested information in this case.
20. With regard to the first criterion of the prejudice test, the Commissioner accepts that the prejudice indicated by the Cabinet Office clearly relates to the interests which sections 27(1)(c) and 27(1)(d) are designed to protect.
21. With regard to the second criterion, the Commissioner is satisfied that the Cabinet Office has described a causal link between disclosure of the requested information and prejudice occurring to the UK's international relations. Furthermore, having inspected the requested information the Commissioner accepts the Cabinet Office's assessment as to the likelihood of such prejudice. Accordingly the third criterion is met.
22. On this basis the Commissioner finds that the exemptions at section 27(1)(c) and section 27(1)(d) are engaged in respect of the requested information, and he has gone on to consider the balance of the public interest.

Public interest arguments in favour of disclosure

23. The Cabinet Office accepts that there is a general public interest in openness in Government which in turn increases public trust and engagement with Government.

24. The complainant pointed out that there is limited information available or which has been published in respect of the UK Government's relationship with the Adani Group and the engagement with the company.
25. The complainant expressed concerns regarding previous actions of the Adani Group. The complainant also pointed out that the Adani Group is heavily linked to mining of coal and construction of coal fired power stations². In light of this and the Government's commitments to achieving net zero and meeting the targets of the Paris Climate Agreement, they consider that there is a significant public interest in understanding the UK Government's engagement with the company.

Public interest in maintaining the exemptions

26. In its refusal notice the Cabinet Office stated that:

"The effective conduct of the UK's international relations depends upon maintaining trust and confidence. To do this there must be good working relationships based on confidence and trust. This relationship of trust allows for the free and frank exchange of information on the understanding that it will be treated in confidence. If the UK does not maintain this trust and confidence, its ability to act as a significant player in the international arena, and protect and promote UK interests through international relations, will be hampered."

27. In its internal review, the Cabinet Office also added the following representations:

"...the question of trust and confidence in the conduct of the UK is of central concern in this matter. International partners (whether they be state, corporate or individual) would have less reason to have trust and confidence in the UK as a partner knowing that it prematurely disclosed information which concerned them. It would discourage engagement with the UK or make that engagement less forthright and meaningful. That would also serve to discourage investment in, and trade with, the UK. That would be detrimental to the interests of the UK abroad and the promotion and protection of those interest".

² <https://energy.economictimes.indiatimes.com/news/coal/gautam-adani-boosting-fossil-fuel-footprint-despite-pledge-to-turn-carbon-neutral/84345648>

<https://www.marketforces.org.au/campaigns/stop-adani/adani-fossil-fuel-expansion-plans/>

28. The Cabinet Office reiterated to the Commissioner its view concerning the importance of ensuring that the UK retains the trust of international partners. It considers that the public interest strongly favours any such engagement being open and beneficial to the interest of the UK. A loss of trust would be likely to jeopardise and make more difficult future co-operation.
29. The Cabinet Office considers that, in this case, there is a particular interest in improving relations with India and strengthening the interests of the UK in India. During a visit to India in 2022, the then Prime Minister made the following statement about the importance of the relationship between the UK and India:

“India is an incredible rising power in Asia, with one of the fastest growing economies in the world – already worth £2.25 trillion – and set to be the world’s third largest economy by 2050.

India is also our biggest partner in the Indo-Pacific, which is increasingly the geopolitical centre of the world, with two-thirds of humanity, and a third of the global economy – and that share is rising every year.

Indian investment already supports almost half a million British jobs, and with a population bigger than the US and the EU combined, there is so much potential for us to take our trade and investment to a whole new level”.

30. In view of the importance of strengthening commercial ties and relationships with India, the Cabinet Office considers that the public interest favours non disclosure to maintain a positive relationship with Mr Adani based on mutual trust. This trust would be undermined if the requested information was disclosed. The Cabinet office pointed out that Mr Adani is a significant individual in the field of renewable energy, an issue which is extremely important to the UK. As such the UK would benefit from any investment from his company.

Balance of the public interest

31. The Commissioner acknowledges that there is a legitimate public interest in disclosing information relating to meetings involving the UK Prime Minister. The Commissioner also accepts that, in light of the submissions advanced by the complainant, there is a genuine public interest in the disclosure of information which would provide insight into the UK’s relations with Mr Adani. Disclosure of the withheld information would go some way to satisfy this public interest.
32. However, the Commissioner considers that there is a public interest inherent in prejudice-based exemptions, in avoiding the harm specified in that exemption. The fact that a prejudice-based exemption is

engaged means that there is automatically some public interest in maintaining it, and this should be taken into account in the public interest test.

33. The Commissioner considers there to be a very significant public interest in protecting the ability of the UK to protect and promote its interests with other States such as India and in ensuring that the UK can enjoy effective international relations. Having regard to the content of the information in question, the Commissioner is not persuaded that the benefit of disclosure would justify or mitigate any prejudice to international relations.
34. For the reasons set out above the Commissioner finds that the public interest in maintaining the exemptions at section 27(1)(c) and section 27(1)(d) outweigh the public interest in disclosure of the requested information.
35. As the Commissioner finds that all of the requested information is exempt under section 27(1)(a) and section 27(1)(c), he is not required to consider the other exemptions cited.

Right of appeal

36. 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

37. 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.
38. 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

Joanne Edwards
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SK9 5AF