

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 July 2024

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant submitted a request to the Cabinet Office seeking details of when Rishi Sunak has used a private jet or helicopter to attend events in Great Britain since he became Prime Minister. The Cabinet Office confirmed that it held information falling within the scope of this request but refused to provide it on the basis of sections 24(1) (national security) and 38(1) (health and safety) of FOIA.
2. The Commissioner's decision is that the requested information is exempt from disclosure on the basis of section 24(1) and that in all the circumstances of the case the public interest favours maintaining the exemption.
3. The Commissioner does not require further steps.

Request and response

4. The complainant submitted the following request to the Cabinet Office on 24 July 2023:

"Could you please tell me when Rishi Sunak has used a private jet/helicopter/air travel to attend events in Great Britain since he became prime minister on 25 October 2022?"

Also, could you tell me how much each trip cost and who covered the cost?"

5. The Cabinet Office responded on 22 August 2023 and stated that it did not hold any information falling within the scope of this request.
6. The complainant contacted the Cabinet Office on 23 August 2023 and asked it conduct an internal review of this response.
7. The Cabinet Office informed her of the outcome of the internal review on 1 February 2024. It explained that it did hold some information falling within the scope of her request but it considered this to be exempt from disclosure on the basis of sections 24(1) and 38(1) of FOIA.

Scope of the case

8. The complainant contacted the Commissioner on 1 February 2024 in order to complain about the Cabinet Office's decision to withhold the information falling within the scope of her request.¹

Reasons for decision

Section 24 – national security

9. Section 24(1) states that:

'Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security'.

10. FOIA does not define the term 'national security'. However in *Norman Baker v the Information Commissioner and the Cabinet Office* (EA/2006/0045 4 April 2007) the Information Tribunal was guided by a House of Lords case, *Secretary of State for the Home Department v Rehman* [2001] UKHL 47, concerning whether the risk posed by a

¹ The Commissioner's role in complaints submitted under section 50 of FOIA is limited to considering the circumstances as they existed at the time of the request, ie in July 2023. Therefore, although there has been a change in government and Prime Minister by the date this notice is being issued, the notice only considers the circumstances as they existed in July 2023 and consequently, and for ease of reference, refers to Rishi Sunak as the Prime Minister.

foreign national provided grounds for his deportation. The Information Tribunal summarised the Lords' observations as follows:

- '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.
11. Furthermore, in this context the Commissioner interprets 'required for the purpose of' to mean 'reasonably necessary'. Although there has to be a real possibility that the disclosure of requested information would undermine national security, the impact does not need to be direct or immediate.

The complainant's position

12. The complainant argued that it is widely known the Prime Minister travels by private jet and helicopter. Furthermore, she argued that revealing when this had happened in the past and, more importantly, how much it has cost the taxpayer, offers no more information than the Prime Minister "holding press events on every visit he makes". As a result the complainant argued that in her view "national security" was "being used very cynically here when his press team confirm or deny each time he has been reported to have used a plane."

The Cabinet Office's position

13. The Cabinet Office explained that it had considered the above principles in concluding that section 24(1) applied to the information within the scope of the request.
14. The Cabinet Office noted that in its internal review it explained that:
- "It has been the practice of successive Administrations not to publish granular information relating to the official movements of protected individuals and those accompanying them within the United Kingdom.

That is because the release of individual pieces of information, while they may seem innocuous in themselves, would allow hostile actors to build up a picture of spending on travel and on security arrangements for their protection.”

15. The Cabinet Office provided the Commissioner with further submissions to support this position which are summarised below, with any references to the withheld information itself being excluded.
16. The Cabinet Office confirmed that the information it held falling within the scope of the request consisted of a list of flights detailing the time, departure and arrival locations, model of aeroplane used, the cost and whether the flight was taken privately or commercially.
17. It argued that from this information it is possible to establish significant information about the domestic movements of the Prime Minister. For example, it is possible that the Prime Minister takes flights to and from a number of destinations on a regular basis. It stated that flights of a higher cost could depict a longer trip or aircraft type.
18. The Cabinet Office argued that disclosure of such information, along with the dates of the flights, could enable a person to discern patterns of movement, particularly if such a disclosure was accompanied by other such disclosures in the future. As a result, the Cabinet Office argued that it could be possible, with an increasing certainty, to establish where the Prime Minister would depart from, or arrive at a particular location during a particular timeframe.
19. The Cabinet Office noted that its internal review response also explained that:

“A disclosure could allow hostile parties, such as a terrorist organisation, to extrapolate likely future travel patterns such as likely airport destination and aircraft to be used and to develop tactics to attack both the Prime Minister and associated staff, disrupting the nation and placing those individuals in personal danger. A degree of ambiguity in travel arrangements is useful when planning Prime Ministerial visits, particularly as modern flight tracker software can allow specific aircraft to be tracked on-line in real time.”
20. The Cabinet Office argued that the Prime Minister is very clearly a target to those who wish to inflict harm upon the country and that the ongoing disclosure of internal flights into the public domain would be useful information to such people. The Cabinet Office argued that a relevant consideration to make is that the Prime Minister’s home address had previously been attacked, demonstrating that the Prime Minister will be

personally targeted if this type of information enters into the public domain.²

21. With regard to flight tracker software, the Cabinet Office argued that it was imperative to also consider historical flight data available to the public and prevent the disclosure of information which would be paired with this for nefarious purposes. The Cabinet Office explained that once a hostile actor learns the date and location of a visit, and the type of aircraft used, it is possible to use flight trackers to derive the precise time of the flight and airfield location. The Prime Minister's movements may then be forecast. The Cabinet Office further explained that some transport options are shared with members of the Royal Family and other senior VIPs. Therefore, if information were to be released about Ministers' use (or lack of) of that aircraft, it will have a mosaicking effect for other protected individuals; combined with flight tracking data, it would also be possible to derive patterns in movements of the Royal Family to the detriment of national security.
22. With regard to the complainant's argument that the Prime Minister's press team provides confirmation as to whether a plane has been used for domestic travel, the Cabinet Office explained that it was not apparent to it that this was the case. In any event, the Cabinet Office argued that such a practice could cease.
23. Furthermore the Cabinet Office argued that confirmation that the Prime Minister has used an aeroplane for the purposes of domestic travel would not reveal when the flight had taken off and when it landed and where it had taken off from and where it had landed.
24. The Cabinet Office explained that it disagreed with the complainant's position that as it is widely known that the Prime Minister travels by private jet and helicopter revealing when this had happened in the past, and more importantly how much this had cost, offers no more information than holding press events on every visit he makes. The Cabinet Office argued that the Prime Minister holding a press conference only makes apparent the fact that he has visited a specific location. The Prime Minister does not hold a press conference in every airfield he goes to prior to embarking on (or disembarking from) a flight. The Cabinet Office noted that official visits of the Prime Minister are routinely published as part of transparency disclosures. However, these do not reveal the methods of transport, which are also via car and rail. Information about these two methods of transport are also not published

² <https://www.bbc.co.uk/news/uk-england-york-north-yorkshire-68351985>

for the same reasons the Cabinet Office considered details of air travel to be exempt from disclosure.

25. The Cabinet Office further noted that publicly available transparency data in respect of the overseas Ministerial travel only makes reference to the start and end date of each 'trip'; this does not reveal when a flight departed or arrived.
26. As part of his investigation, the Commissioner highlighted to the Cabinet Office that as part of these transparency disclosures, the Cabinet Office confirms instances when private jets have been used by the Prime Minister for international travel, including providing details of the aircraft used and the costs for such trips. The Commissioner sought clarification from the Cabinet Office as to why disclosure of similar information for domestic trips is considered to be prejudicial.
27. In response the Cabinet Office argued that it was important to note that the transparency data more broadly concerns overseas travel. It argued that if the equivalent data was published for domestic travel, ie the method of transport including road and rail (as well as air), it would be an extensive list that would provide a very thorough breakdown of the daily movements of the Prime Minister. The Cabinet Office argued that such a list would properly attract the exemptions contained at sections 24 and 38 of FOIA. For these reasons, the Cabinet Office argued that the granular detail of domestic travel undertaken by the Prime Minister is not routinely published although broad details of the official visits made are.
28. The Cabinet Office explained that it was not clear to it why disclosure of domestic flight information should be published routinely any more than the regular use of by the Prime Minister of rail or road transportation. Indeed, the Cabinet Office argued that disclosure of official flight information would in itself allow information to be inferred by omission. For example, if the Prime Minister was not travelling by air, then he would be travelling by road or rail. This would allow for patterns to be narrowed down on the Prime Minister's weekly travel to his constituency – a regular journey that is highly likely to be targeted by hostile actors if the mode of transport can be derived. The Cabinet Office explained that whilst it recognised the merits of transparency, it remained the case that ambiguity of movements is necessary for security.
29. Furthermore, the Cabinet Office noted that overseas travel tends to be for specific, diplomatic trips undertaken by the Prime Minister. Such trips are undertaken by the government as a diplomatic necessity and in pursuit of the country's interests abroad. It is not possible to establish any patterns of movement from the publication of such trips.

30. In contrast domestic flights taken by the Prime Minister have a more routine character which is made clear from the repeated nature of destinations in the schedule of the withheld information. As a result, it is possible to build up a pattern of movement with reference to domestic travel much more easily than in respect of overseas travel.
31. Finally, the Cabinet Office emphasised that the government has maintained a policy of not publishing granular information about the domestic movements of Ministers in response to Parliamentary Questions.³ The Cabinet Office explained that the latter question originated from information available on flight tracking software with the Defence Minister declining to disclose the information as this would have inferred information relating to a specific Ministerial journey to a highly secure military site. The Cabinet Office argued that this illustrates the point how seemingly innocuous data can be mosaicked to derive very sensitive information.
32. Taking the above into account, the Cabinet Office was satisfied that the exemption of the requested information from disclosure was necessary for the purpose of safeguarding national security.

The Commissioner's position

33. The Commissioner appreciates the complainant's point regarding some information already being in the public domain about the Prime Minister's use of private planes or helicopters, including the apparent confirmation given by his press team.
34. Furthermore, he is not persuaded that all of the information described by the Cabinet Office at paragraph 16 actually falls within the scope of the request. Whilst he accepts that the part of the request that seeks details of 'when' such flights took place would encompass the time and date of any flights, and arguably also the arrival and departure locations, the Commissioner does not consider that the request also encompasses the model of aircraft used.
35. Nevertheless, the Commissioner agrees with the Cabinet Office that there is a clear distinction between the information he accepts being in the scope of the request and the information in the public domain referred to by the complainant. Confirmation during a visit by the Prime Minister that he had apparently travelled there by private plane or

³ For example <https://questions-statements.parliament.uk/written-questions/detail/2023-02-09/143904> and <https://questions-statements.parliament.uk/written-questions/detail/2024-01-05/7873>

helicopter would still not reveal - or necessarily reveal on a consistent basis - the departure/arrival airfield or the time of departure/arrival. Moreover, the Commissioner appreciates that there may be trips where such a mode of transport is used which are not the subject to press briefings such as those referred to by the complainant.

36. As a result the Commissioner is persuaded that disclosure of the information in scope would provide significantly greater insight into the Prime Minister's use of domestic air travel than is already understood, or could be gleaned from, the information already in the public domain.
37. Furthermore, having considered the information the Commissioner agrees with the Cabinet Office's analysis that its disclosure would reveal clear and discernible patterns of the Prime Minister's use of domestic air travel. In addition, the Commissioner agrees that by process of elimination it would also reveal, or allow details of his other domestic travel to be inferred. That is to say, if it is known that the Prime Minister undertakes a particular journey on a regular basis and this is not listed on the withheld information, then it is clear that such a journey will be made by road or rail.
38. Whilst the Commissioner appreciates that the withheld information seeks information about past journeys - as opposed to future planned travel - given the pattern and repetition of many of these, allied to flight tracker technology, the Commissioner accepts the Cabinet Office's argument that there is a genuine risk of a mosaic effect. This to say of such information, or even parts of this information, being used to predict the Prime Minister's future travel arrangements alongside other information already in the public domain and possible future disclosures.
39. Having accepted the above points, the Commissioner further accepts that there is a real risk to the safety and security of the Prime Minister if such information was disclosed. In turn this could be said to represent a risk to national security given the role and position the Prime Minister holds. In reaching this finding the Commissioner accepts that the risk to the Prime Minister, both the current holder of the office, and indeed any Prime Minister, from those with nefarious intent, including terrorists groups is genuine and real.
40. The Commissioner has also taken into account the government's consistent position in respect of not revealing detailed information about the domestic travel arrangements of Prime Ministers for security purposes. For the reasons detailed above the Commissioner accepts the rationale behind this position. Moreover, he acknowledges that disclosure of the information in the scope of this request would clearly undermine this established position. In other words, the Commissioner accepts the Cabinet Office's position that in respect of the Prime

Minister's travel arrangements a degree of ambiguity is necessary for security purposes.

41. In reaching this finding the Commissioner is also persuaded by the arguments that the Cabinet Office made regarding the distinction between the details of overseas travel by the Prime Minister and domestic air travel.
42. Consequently, in view of the above the Commissioner accepts that withholding the requested information is necessary in order to protect national security and section 24(1) of FOIA engaged.

Public interest test

43. 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 contained at section 24(1) outweighs the public interest in disclosing the information.
44. The complainant argued that it is legitimate to see whether the Prime Minister's transport arrangements provide value to the taxpayer and disclosure of the requested information was necessary to meet that aim. The complainant also argued that given the context of a cost of living crisis it is only right to see how much public money is being spent on these expensive modes of transport.
45. For its part the Cabinet Office acknowledged that there is, to a degree, a public interest in knowing where the Prime Minister flies to in carrying out his official duties so as to better understand his role.
46. However, the Cabinet Office argued that in its view there was a greater public interest in maintaining the exemption. It argued that there was a stronger public interest in preserving the security of government ministers and officials. For the reasons set out above the Cabinet Office argued that disclosure of the withheld information would be of value to a potential attacker and it was plainly not in the public interest for such information to be available to those who wish to inflict harm on the UK.
47. Furthermore, the Cabinet Office argued that there is a strong public interest in the government being able to make arrangements for Prime Ministerial travel along present lines without having to make allowances for regular disclosures of information which would detail that travel. The Cabinet Office argued that it would not be in the public interest if additional arrangements had to be made in order to minimise the risk of disruption, such as the alteration of flight destinations from what they would otherwise be in order to maintain the security of the Prime Minister.

48. It also argued that there are limits to the public benefit in understanding where the Prime Minister flies to. For example, the Cabinet Office suggested that while it may benefit the public understanding to know that the Prime Minister flies to and from a particular location regularly, it was not clear to the Cabinet Office that there is a public interest in disclosing the number of times the Prime Minister has done so in a particular period. In any event, the Cabinet Office argued that in its view the public interest in understanding how the duties of the role of the Prime Minister take him to parts of the country are satisfied by the publication of his official visits as part of transparency data.
49. The Commissioner recognises that the Prime Minister's use of air travel for domestic travel has attracted attention and criticism, both from the point of view of the cost of this method of transport and for environment reasons. In this context, the Commissioner agrees that there is a public interest in disclosure of information in order to provide accountability and transparency in respect of both the cost and extent of such trips.
50. However, for the reasons set out above, the Commissioner accepts that disclosure of the withheld information would represent a genuine security risk to the Prime Minister, and in turn, to the national security of the UK. As a result he also accepts that there is significant and very weighty public interest in maintaining this exemption. Therefore, despite the acknowledged public interest in disclosure, he considers that this is significantly outweighed by the public interest in maintaining the exemption.
51. In view of this decision the Commissioner has not considered the Cabinet Office's reliance on section 38 of FOIA.

Right of appeal

52. 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

53. 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.
54. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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