

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 July 2012

Public Authority: Foreign and Commonwealth Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant has requested information which refers to the trial of Vojislav Seselj at the International Criminal Tribunal for the former Yugoslavia ("ICTY"). The Foreign and Commonwealth Office ("FCO") provided some information but refused to provide the remainder citing provisions of section 27 (International Relations) and section 35 (Formulation/Development of Government policy) as its basis for refusal.
2. The Commissioner's decision is that FCO is entitled to withhold the majority of the information under 3 provisions of section 27. However, it should disclose a small amount of personal data that it previously withheld. In failing to provide this personal data, it contravened the requirements of section 1 and 10 of the Act. It also contravened the requirements of section 17 when it took an unreasonable amount of time to conduct a balance of public interest test.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - It must disclose the names listed in a Confidential Annex to this Notice by reinstating them into the documents it has already disclosed and then supplying those documents to the complainant. It is entitled to withhold the remainder of the information in those documents which has not already been disclosed.

4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 17 November 2011, the complainant wrote to the FCO and requested information in the following terms:

"I wish to see copies of documents held by FCO which mention and refer to the trial of Vojislav Seselj at the ICTY. Please send me all documents which mention Vojislav Seselj from 10 November 2006 to 10 December 2006; and from March 2011 to November 2011."

6. The FCO wrote to the complainant on 15 December 2011 to advise that it was considering the balance of public interest in relation to the international relations exemption at section 27 of the FOIA. It explained that it would need another twenty working days to consider this and aimed to provide a full response by 18 January 2012. It wrote again on that date to explain that it now needed until 25 January 2012 to respond.
7. The FCO provided the outcome of its deliberations on the balance of public interest on 25 January 2012. It provided some information within the scope of the request but refused to provide the remainder. It cited the following exemptions as its basis for doing so:
 - section 27(1)(a) and section 27(2) (International Relations); and
 - section 35(1)(a) (Formulation/Development of Government policy)
8. Following an internal review the FCO wrote to the complainant on 2 March 2012. It upheld its original position but provided more detail about how it had redacted the material it had disclosed.

Scope of the case

9. The complainant contacted the Commissioner on 5 March 2012 to complain about the way his request for information had been handled. Specifically, he queried whether the FCO was entitled to rely on the exemptions it had cited as its reasons for refusal to provide the requested information.
10. In correspondence with the Commissioner, the FCO also stated it was seeking to rely on section 27(1)(b), section 42 (Legal Professional Privilege) and section 40(2) (Unfair disclosure of personal data) as its reasons for withholding certain of the withheld information.
11. The Commissioner has therefore considered the application of the following exemptions with specific reference to the withheld information:
 - section 27(1)(a) and (b) and section 27(2) (International Relations);
 - section 35(1)(a) (Formulation/Development of Government policy);
 - section 42 (Legal Professional Privilege); and
 - Section 40(2).
12. The complainant also raised concerns about delays which arose in the FCO's response to his request. The Commissioner has therefore also considered whether the FCO contravened any of its procedural obligations under the Act in the time it took to respond the complainant's request
13. Finally, the complainant raised concerns about the tone of FCO's correspondence when writing to him. This is addressed in Other Matters.

Reasons for decision

14. Sections 27(1)(a) and (b) of FOIA state 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”.*
15. The Commissioner considered the two exemptions within section 27(1) in tandem.
16. In order for a prejudice-based exemption, such as those set out in section 27(1), to be engaged the Commissioner believes that three criteria must be met.
17. Firstly, the actual harm which the public authority alleges would (or would be likely to) occur if the withheld information was disclosed has to relate to the applicable interests within the relevant exemption.
18. Secondly, the public authority must be able to demonstrate that some causal relationship exists between the potential disclosure of the information being withheld and the prejudice which the exemption is designed to protect. Furthermore, the resultant prejudice which is alleged must be real, actual or of substance.
19. Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – i.e. disclosure would be likely to result in prejudice or disclosure would result in prejudice. If the likelihood of prejudice occurring is one that is only hypothetical or remote the exemption will not be engaged.
20. Furthermore, the Commissioner has been guided by the comments of the Information Tribunal which suggested that, in the context of section 27(1), prejudice can be real and of substance *‘if it makes relations more difficult or calls for a particular damage limitation response to contain or limit damage which would not have otherwise have been necessary’ (Campaign*

Against the Arms Trade (CAAT) v the Information Commissioner and Ministry of Defence (EA/2007/0040)).¹

Section 27(1)(a) and (b) – Engaging the exemptions

21. With the above in mind, the Commissioner has considered both the withheld information and the FCO's detailed submissions in support of its reliance on section 27(1)(a) and (b).

Does the alleged harm relate to the exemptions cited?

22. The alleged harm claimed by the FCO clearly relates to the exemptions within section 27(1)(a) and (b). That is, FCO has asserted that there will be a likely detrimental impact upon bilateral relations between the UK and another State and between the UK and the ICTY. The first criterion for engaging these exemptions is therefore met. This is not to say that the Commissioner accepts these arguments. It means only that he agrees that the prejudicial outcome envisaged by the FCO relates to the one described in the exemptions in question.

Is there a causal relationship between disclosure and the harm described in the exemption?

23. The FCO provided relevant background detail. It explained that at the time of the request, Mr Seselj's trial was ongoing at the ICTY. FCO also noted that elections in Serbia were due to take place in May 2012 (two months after its internal review of its initial refusal). It also provided further related detail with specific reference to the withheld information. In the Commissioner's view, the FCO has satisfactorily established a causal link between disclosure of the withheld information and the prejudicial outcome described in both exemptions in section 27(1). He also agrees that the alleged likely prejudice is real and of substance. The Commissioner, therefore, agrees that the second criterion for engaging both section 27(1)(a) and section 27(1)(b) is met. Unfortunately, the Commissioner is unable to set out the detail supplied by the FCO on the face of this notice without disclosing the withheld information itself.

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<http://www.informationtribunal.gov.uk/DBFiles/Decision/i205/Campaign%20Against%20the%20Arms%20Trade;%20EA.2007.0040%20.pdf> (EA/2007/0040)
Paragraph 81.

Likelihood of prejudice

24. Considering the third criterion, that is, likelihood of prejudice, the Commissioner notes that the FCO has relied on the lower threshold of prejudice described in the exemptions. It has asserted that prejudice would be likely to arise following disclosure rather than asserting that prejudice *would* arise.
25. The withheld information covers two specific periods of time prior to the request. The first relates to a period when Mr Seselj was on hunger strike.² The second relates to a period when Mr Seselj was accused of being in contempt of court. The information addresses these two issues at a time when they had yet to conclude. While the first time period occurred several years before the request, the second time period ended shortly before the request.³ Even though these two events were in the recent past, Mr Seselj's trial for alleged war crimes was still ongoing at the time of writing this notice.
26. In the Commissioner's view, information which relates to international relations has a particular sensitivity where it addresses current or very recent events as is the case here. Arguably, the information which relates to the first of the two time periods could be construed as less sensitive because of the passage of time. However, the Commissioner takes the view that the context prevailing at the time of the request is also significant; the ongoing trial of Mr Seselj at the ICTY and the forthcoming general election in Serbia at which Mr Seselj's party (the Serbian Radical Party) fielded candidates. The Commissioner considers that it is incumbent upon the UK Government to respect both the judicial process at the ICTY and the democratic process being undertaken in Serbia. The Commissioner also considers it is in the interests of the UK Government to demonstrate its respect for these two processes. It can best do this by refraining from public commentary on either process, particularly while they are ongoing. Disclosure of the withheld information under FOIA would constitute public commentary on both processes.
27. With the above in mind, the Commissioner agrees that prejudice described in both section 27(1)(a) and section 27(1)(b) would be

² <http://news.bbc.co.uk/1/hi/6163129.stm>

³ http://www.icty.org/x/cases/contempt_seselj2/acdec/en/120111.pdf

likely to arise if the FCO were to disclose the withheld information to which those exemptions have been applied.

Section 27(1)(a) and (b) –Public interest test

28. Section 27 is a qualified exemption. This means that, even where its provisions are engaged, the information can only be withheld when the public interest in maintaining the exemption(s) in question, outweighs the public interest in disclosure.

The complainant's arguments

29. The complainant arguments as to the balance of public interest emphasised his view that the FCO gave weight to protecting officials from embarrassment which was not relevant. He also argued that the FCO had given too much weight to the public interest arguments for withholding the information.

The FCO's arguments

30. In correspondence with the complainant, the FCO recognised that disclosure "*would increase public knowledge about our relations with fellow UN member states and the ICTY*".
31. In correspondence with the Commissioner it also set out the arguments it considered in favour of disclosure:
- the high profile nature of the subject matter;
 - promoting transparency in regard to decisions taken by international institutions (i.e. the UN/ICTY);
 - increasing the understanding of an important issue in order to allow for a more considered debate to take place
 - promoting greater accountability for any decisions that were taken
32. In correspondence with the complainant it set out the following arguments in favour of maintaining both section 27(1)(a) and section 27(1)(b):
- the effective conduct of international relations depends upon maintaining trust and confidence between national governments. If the UK does not maintain this trust and confidence, its ability to protect and promote our national interests through international relations will be hampered. This would not be in the public interest.

- the disclosure of information related to the UK's relationship with fellow UN member states could potentially damage bilateral relationships. This would reduce the UK Government's ability to protect and promote UK interests which would also not be in the public interest.
33. In correspondence with the Commissioner, the FCO set out further arguments which expanded upon these arguments but which were made with specific reference to the information that has been withheld. The Commissioner is unable to set out these arguments in any detail the face of this notice without also disclosing the detail of the withheld information. However, he can add that the FCO also set out arguments regarding the public interest in maintaining a positive relationship with the ICTY. These were specifically made in support the FCO's reliance on section 27(1)(b).

Balance of public interest test

34. The Commissioner accepts that there is considerable public interest in developing the public's understanding of the UK's relationship with other UN member states, particularly Serbia. The recent troubled history of the Balkan region remains the subject of considerable international attention. UK troops were deployed to this region in the 1990s and there are ongoing peace-keeping operations in the region where UK armed forces remain involved.⁴ Clearly, this necessitates the expenditure of UK public funds and the commitment of UK armed forces at a time when there are high-profile financial and military commitments by the UK elsewhere in the world. Disclosure of the withheld information would develop the public's understanding of the UK's relationship with this region in this context.
35. Arising from the tragic events of the 1990s in the region, there have been a number of hearings at the ICTY. The hearings also attract considerable coverage internationally and there is a strong public interest in increasing understanding of the UK's relationship with the ICTY. Again, disclosure would serve this interest.
36. The Commissioner reviewed the withheld information with the above in mind. He agrees with the FCO that in the circumstances

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<http://www.mod.uk/DefenceInternet/DefenceNews/MilitaryOperations/UkCommitsMoreTroopsToBalkansPeacekeepingMission.htm>

of this case there is a more compelling public interest in promoting positive bilateral relationships. The Commissioner believes that the public interest in avoiding the prejudicial outcome described in section 27(1)(a) is sufficiently weighty to support the reliance on that exemption in this case. He also agrees that there is a more compelling public interest in avoiding prejudice to the UK's relations with the ICTY which outweighs the public interest in disclosure. He therefore also agrees that information to which section 27(1)(b) has been applied can be withheld on that basis.

37. The Commissioner noted the complainant's concerns as to the protection of officials from embarrassment. He found no evidence in the withheld information to support this. Had he found such evidence he would have considered it as part of his deliberations on the balance of public interest.

Section 27(1)(a) and section 27(1)(b) - Conclusion

38. The Commissioner agrees that the FCO is entitled to rely on these exemptions where it has applied them. He has concluded that the public interest in maintaining the exemptions outweighs the public interest in disclosure.

Section 27(2) – Engaging the exemption

39. Section 27(2) provides that –

“Information is also exempt information if it is confidential information obtained from a State other than the United Kingdom or from an international organisation or international court.”

40. This exemption applies to information which matches the description set out in the previous paragraph. It is therefore a class-based exemption with no test of prejudice or harm; the information in question either matches this description or it does not.
41. The Commissioner has reviewed the information to which this exemption has been applied. He is satisfied that it is confidential information within the meaning of section 27(2). Unfortunately, he is unable to elaborate on this point without disclosing the detail of the withheld information, which would defeat the object of the exemption. However, in conclusion, he is satisfied that section 27(2) is engaged in relation to this information.

Section 27(2) – Public interest test

42. As above, the complainant made no specific arguments as to any of the exemptions within section 27 other than to assert that the FCO had considered the balance of public interest incorrectly.
43. The FCO explained its reliance on section 27(2) and its view on the balance of public interest in its submissions to the Commissioner. The Commissioner is unable to reproduce the detail of these arguments on the face of this notice but would note that it placed particular emphasis on the timing of the request.

Section 27(2) – Balance of public interest test

44. Section 27(2) was considered in the aforementioned Tribunal case, *Campaign Against the Arms Trade (CAAT) v the Information Commissioner and Ministry of Defence (EA/2007/0040)*. At paragraph 95, the Tribunal accepted that Parliament recognised that the Act, by virtue of the provisions in s27, assumes an “*inherent disservice to the public interest in flouting international confidence*”. It ascribed particular weight to the importance maintaining confidences in the context of what it referred to as “*international comity*”. The Shorter Oxford Dictionary definition of comity is: the mutual recognition by nations of the laws and customs of others.
45. The Commissioner considers that the public interest arguments favouring disclosure which have been set out above in relation to section 27(1)(a) and section 27(1)(b) also apply here. However, he considers that the public interest in protecting international confidences is more weighty in the circumstances of this case. He accepts the FCO’s additional remarks as to the timing of this request as being significant in this regard.

Section 27(2) - Conclusion

46. The Commissioner agrees that the FCO is entitled to rely on this exemption where it has applied it. He has concluded that the public interest in maintaining this exemption outweighs the public interest in disclosure.

Section 35(1)(a) – Formulation/Development of Government Policy

47. The information to which this exemption has been applied has already been considered under section 27(1)(a) or section 27(1)(b). The Commissioner has already determined that this information is exempt by virtue of these two exemptions in section 27. The Commissioner therefore does not propose to consider further the application of this exemption at section 35.

Section 42 – Legal Professional Privilege

48. The small amount of information to which this exemption has been applied has already been considered under section 27(1)(a) or section 27(1)(b). The Commissioner has already determined that this information is exempt by virtue of these two exemptions in section 27. The Commissioner therefore does not propose to consider further the application of this exemption at section 42.

Section 40(2) – Unfair Disclosure of Personal Data

49. In its submissions to the Commissioner, the FCO withdrew reliance on section 27 or section 35 in relation to a small amount of the withheld information and instead introduced reliance on section 40(2). This was applied to names of individuals whose names appear as the sender or recipient of correspondence that falls within the scope of the request. The Commissioner invited further submissions from the FCO in support of its position in this regard.

50. The relevant provisions of section 40 are section 40(2) and section 40(3)(a)(i). These are somewhat complex provisions and can be accessed in full via a website which is delivered by the National Archives.⁵

51. However, they can readily be summarised as follows: the relevant exemption in section 40 is engaged where disclosure under FOIA of requested information would breach any of the eight data protection principles of the Data Protection Act (DPA).⁶

⁵ <http://www.legislation.gov.uk/ukpga/2000/36/contents>

⁶ <http://www.legislation.gov.uk/ukpga/1998/29/contents>

52. The data protection principles of the DPA only apply to personal data. Personal data is information which relates to a living and identifiable individual and is biographically significant about them.
53. The FCO has argued that disclosure of the withheld information would be unfair and thus breach the first data protection principle. The first data protection principle requires personal data to be processed fairly and lawfully and in accordance with at least one of the conditions for processing listed in Schedule 2 of the DPA.
54. This means, in summary, that if disclosure under FOIA would be unfair, unlawful *or* would not be in accordance with any relevant conditions, that disclosure would contravene the first data protection principle. The information in question would, therefore, be exempt under the personal data exemption.
55. In considering the fairness of disclosure the Commissioner has taken into account the following factors:
 1. The expectations of the individuals
 2. The possible consequences of disclosure
 3. Whether the legitimate interests of the public are sufficient to justify any negative impact on the rights and freedoms of the data subjects
56. This analysis also takes into account the factors which underpin the most relevant condition in Schedule 2 of the DPA, namely condition 6.
57. When considering 'legitimate interests', in order to establish if there is such a compelling reason for disclosure, such interests can include broad general principles of accountability and transparency for their own sakes as well as case specific interests. In balancing these legitimate interests with the rights of the data subject, it is also important to take a proportionate approach. This means that it may still be possible to meet the legitimate interest by only disclosing some of the requested information rather than viewing the disclosure as an all or nothing matter.
58. The information at issue here is the names of officials who either sent or received emails, the substantive content of which falls within the scope of the request. The Commissioner is satisfied that sender/recipient information also falls within the scope of the request. This is because it provides important factual detail about

who sent the substantive content to whom and when. The provenance of a particular email is crucial to the assessment of its significance as is the record of its recipient.

59. The Commissioner had queried whether certain information, which appeared to be non-personal Inbox addresses, could constitute personal information. The FCO explained that the information is held electronically and, if disclosed electronically, it would be possible to expand these non-personal Inbox addresses to show the list of named individuals who would have received the message.
60. The Commissioner also queried whether some of the named individuals were senior enough to have a reduced expectation of confidentiality, such that disclosure of their names in this context would be fair. The FCO accepted that some of the named individuals were sufficiently senior for disclosure of their names to be warranted and their names were not otherwise exempt from disclosure, i.e., under section 27. These names are listed in a Confidential Annex to this decision notice.
61. However, it argued that the names of certain individuals, characterised as "junior officials", were exempt under section 40(2) because disclosure would be unfair and wholly outside their reasonable expectations. It also raised said that disclosure may also lead to an increased risk to individuals' personal security which could affect their ability to perform their duties. This concern related to UK embassy staff.

Is the information personal data?

62. The Commissioner is satisfied that information showing where a person works, how they can be contacted there and what projects they were involved with at work is information which relates to them and is biographically significant about them. As noted above, there are two types of sender/recipient information to which section 40 has been applied. The first clearly identifies the sender or recipient by name. The second is an apparently non-personal email address from which a distribution list can be determined if accessed electronically. The distribution list shows named individuals.
63. The Commissioner is satisfied that, in the context of this case, the names of individuals who sent or received the emails in question

relates to those individuals and is biographically significant about them. As such, it is personal data which is subject to the provisions of the DPA. This includes information showing named individuals which can be obtained when non-personal Inbox addresses are expanded electronically.

Would disclosure of the officials' names be unfair?

64. The Commissioner's guidance on personal information states that it is important to draw a distinction between the information which senior staff should expect to have disclosed about them and what junior staff should expect to be disclosed. The rationale for this is that the more senior a person is the more likely it is that they will be responsible for making influential policy decisions.⁷ In this case, the information shows that certain individuals were involved in the email exchanges in question.
65. The FCO's policy is that all officers below the grade of SMS ("Senior Management Service") constitute junior officials.
66. Regardless of the merits of this argument, the Commissioner has concluded that none of the individuals below the grade of SMS would expect the disclosure of their names in this context given that it would contravene the FCO's policy in this regard.
67. Having concluded that none of the individuals would expect the disclosure of their names in this context, the Commissioner has gone on to consider whether such an expectation is reasonable. Where it is not reasonable, disclosure may be fair.
68. The Commissioner notes the FCO's particular concern about a security risk to staff below the grade of SMS in the circumstances of this case, particularly where they do not expect disclosure of their names in this context as set out above. He is satisfied that the FCO's concern is reasonable. He is therefore satisfied that the individuals in question hold a reasonable expectation that their names would not be disclosed. It would follow standard FCO policy and it relates to matters of personal security.

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http://www.ico.gov.uk/for_organisations/freedom_of_information/information_request/~media/documents/library/Data_Protection/Detailed_specialist_guides/PUBLIC_AUTHORITY_STAFF_INFO_V2.ashx&src=IE-Address

69. The Commissioner agrees therefore that the disclosure of names of officials below the grade of SMS would be unfair. He has reached this view based on the particular circumstances of this case and the security implications for the individuals concerned where their names are disclosed. His view is confined to the context of this case and does not necessarily read across to any other FCO case where the disclosure of names of individuals below the grade of SMS is at issue.

Section 40(2) – Junior officials: Conclusion

70. He is therefore satisfied that, in the circumstances of this case, the disclosure of the names of officials below the grade of SMS would be unfair and in contravention of the first data protection principle of the DPA. These names are therefore exempt from disclosure under section 40(2) of FOIA.
71. Disclosure of the names of junior officials here would add very little to the information that has already been disclosed. Whilst it could be argued that there is a legitimate interest in promoting transparency and accountability. The Commissioner's view is that this can be served by the disclosure of the names of officials at SMS grade and above.

Section 40(2) – Officials at SMS grade and above

72. At the Commissioner's request, the FCO revisited the names contained in the withheld information. It accepted that some that were redacted from disclosure were at SMS grade or higher. It also accepted that these names could have been disclosed. These names are listed in a Confidential Annex to this Notice.
73. In the course of his correspondence with the FCO, the Commissioner asked if the public authority wished to rely on any other exemptions in relation to officials' names. It said that it did not.

Section 40(2) – Officials at SMS grade and above: Conclusion

74. In light of the above, the Commissioner has concluded that the FCO should have provided the names of officials at SMS grade as part of its disclosure to the complainant. This is because those names are not otherwise exempt from disclosure under the Act.

75. In failing to provide this information the FCO contravened the requirements of section 1(1)(b) (Right of access) and section 10(1) (Time for compliance).
76. Section 10(1) provides that –
- “Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”*
77. The Commissioner has therefore decided that the FCO should now reinstate the names listed in the Confidential Annex to this Decision Notice. These names should be restored to the information that is not exempt from disclosure and sent to the complainant.

Public interest test delay

78. Section 17(3) (b) provides that –
- “A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 [the public interest test] applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming –*
- (b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”*
79. In summary, this means that a public authority must provide a response to an FOIA request within 20 working days. However, if the public authority is seeking to rely on an exemption which is qualified by a public interest test, it can give notice that it will require further time to consider the balance of public interest. The FOIA says that this time period should be what is reasonable in the circumstances. The Commissioner recommends that this should take no more than a further 20 working days for complex cases, a total of 40 working days overall.⁸

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http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/foi_good_practice_guidance_4.pdf

80. The FCO is, therefore, entitled to extend the deadline for initial response where it is considering the application of the public interest provided it informs the complainant of this in a timely manner. It did so in this case. It told the complainant on 15 December 2011 that it would complete its consideration by 18 January 2012. It therefore considered this to be a reasonable time in the circumstances. It extended this for 5 further days in a letter of 18 January 2012. It provided a response on 25 January 2012. In other words, it took 46 working days to provide a response. This is in excess of the time scale set by the FOIA, in excess of the extension period recommended by the Commissioner for consideration of the public interest test and in excess of the time scale that the FCO had originally construed as reasonable. The Commissioner notes that in correspondence with the complainant the FCO erroneously referred to the terms of the FOIA as allowing 40 working days for a response.
81. In failing to provide the complainant with the outcome of the public interest test it conducted in relation to section 27 within a time that was reasonable in the circumstances, FCO contravened the requirements of section 17(3) of the FOIA.

Other matters

82. The Commissioner notes that there was an exchange of correspondence between the complainant and the FCO where the FCO firmly rebutted allegations made by the complainant. This correspondence took place via the website www.whatdotheyknow.com which provides a facility for making FOIA requests online.
83. While the Commissioner notes that the FCO's rebuttal of the complainant's allegations was robust, he does not consider that FCO contravened any of the requirements of the FOIA in the tone of its responses. On reflection, FCO may have chosen to express itself differently but this is not a matter that the Commissioner can consider under section 50 of FOIA.

Right of appeal

84. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

85. 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.
86. 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

Graham Smith
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