

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 July 2016

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

Decision (including any steps ordered)

1. The complainant has requested seven Iraq related documents dating from the year prior to the Iraq war in March 2003. The Cabinet Office refused to disclose the majority of the requested information in reliance on section 22 (information intended for future publication). The remainder of the (non-section 22) information was withheld under sections 27(1)(international relations), 23(1)(information supplied by, or relating to, bodies dealing with security matters) and section 24(1)(national security). The Commissioner's decision is that the Cabinet Office was entitled to rely on all the maintained exemptions to refuse the request.
2. The Commissioner does not require the Cabinet Office to take any further steps.

Request and response

3. On 21 January 2015, the complainant wrote to the Cabinet Office and requested information in the following terms:

*The March 2002 Cabinet Office "Iraq Options" paper
The legal advice attached to the "Iraq Options" paper
The 14 March 2002 memorandum from David Manning to Tony Blair
The 18 March 2002 letter from Christopher Meyer to David Manning
The 22 March 2002 letter from Peter Ricketts to Jack Straw*

The July 2002 Cabinet Office briefing paper "Iraq: conditions for military action"

The record of the meeting on Iraq at Downing Street on 23 July 2002 made by Matthew Rycroft'.

4. The Cabinet Office initially responded to the request on 18 February 2015 and advised the complainant that information he had requested was exempt from disclosure under section 22 of the FOIA. The Cabinet Office advised that the information not exempt under section 22 was exempt under section 27(1)(a)(c) and (d) and section 35(1)(a) and (b) of the Act. The response advised that the Cabinet Office required additional time to consider the public interest test and that they hoped to provide a substantive response by 18 March 2015.
5. The Cabinet Office provided their substantive response to the request on 17 March 2015. The response confirmed that the Cabinet Office held the information requested but that it was exempt under section 22(1). With regard to the public interest test, the Cabinet Office recognised that, *'there is a general public interest in disclosure and the fact that openness in government increases public trust in and engagement with the government. However, the information you have requested has been prepared for publication by the Iraq Inquiry. Releasing this information to you now would interfere with that process'*. Taking into account all the circumstances of the case, the Cabinet Office concluded that the balance of the public interest favoured withholding the information. There was no reference to sections 27 or 35 in the substantive response.
6. The complainant requested an internal review of the decision on 24 March 2015. He contended that the Cabinet Office had misunderstood section 22(1) and stated that:

'The information that is the subject of my request is not held by the Cabinet Office with a view to its publication. It was held by the Cabinet Office prior to the establishment of the Iraq Inquiry. The information is now also held by the Iraq Inquiry, which apparently intends to publish it, but can/will do so without reference to the Cabinet Office. There is no connection between the Cabinet Office holding the information and the intended publication of the information by the Iraq Inquiry'.
7. Following an internal review the Cabinet Office wrote to the complainant on 13 May 2015. The review upheld the application of section 22(1) and advised the complainant that a public authority can still apply section 22 to information it holds even though the public authority does not intend to publish the information itself. *'in other words, section 22 does apply in cases where a public authority intends to pass the information to another person/body in order for it to be published'*. The review stated that, *'all of the information you have requested is held by the Iraq*

Inquiry with a view to its publication. Releasing this information to you now would risk undermining the Inquiry's work'. There was no reference to sections 27 and 35 in the internal review.

Scope of the case

8. The complainant contacted the Commissioner on 13 May 2015 to complain about the way his request for information had been handled.
9. The complainant advised the Commissioner that he knew '*for certain*' that the information which he had requested would not be published in full because he had been told by the Iraq Inquiry that '*the government had insisted on redactions*'. The complainant stated that the Cabinet Office had '*lied about this issue*' and he noted that in their initial response to his request of 18 February 2015 the Cabinet Office had stated that sections 27 and 35 applied to some of the information which was not exempt under section 22. '*This is a clear indication that the Cabinet Office is aware that not all of the information will be published by the Iraq Inquiry*'.
10. In submissions to the Commissioner the Cabinet Office clarified the position as regards the exemptions applying to the information requested by the complainant. For ease of reference the Commissioner has numbered the seven relevant documents as follows:

The March 2002 Cabinet Office "Iraq Options" paper (Document 1)

The legal advice attached to the "Iraq Options" paper (Document 2)

The 14 March 2002 memorandum from David Manning to Tony Blair (Document 3)

The 18 March 2002 letter from Christopher Meyer to David Manning (Document 4)

The 22 March 2002 letter from Peter Ricketts to Jack Straw (Document 5)

The July 2002 Cabinet Office briefing paper "Iraq: conditions for military action" (Document 6)

The record of the meeting on Iraq at Downing Street on 23 July 2002 made by Matthew Rycroft (Document 7)

11. The Cabinet Office confirmed to the Commissioner that 'only some' of the information requested by the complainant was planned for publication by the Iraq Inquiry. Specifically, documents 2, 3, 4 and 5 were planned for publication without redactions and were therefore exempt from disclosure in their entirety under section 22(1). However, documents 1, 6 and 7 were planned for publication with redactions, and

so only some of the information contained in the three documents concerned was exempt under section 22(1).

12. Asked to explain why the initial request response had cited sections 27 and 35 but there had been no mention of these exemptions in the subsequent substantive response and internal review (reliance being placed solely on section 22(1)) the Cabinet Office advised that this was due to an oversight in the drafting process and apologised for the same.
13. The Cabinet Office advised the Commissioner that on reflection they no longer considered that section 35 applied in this case but that in addition to section 27(1)(a) they were applying sections 23(1) and 24(1) to some of the non-section 22(1) information in scope of the request (i.e. the redactions to documents 1, 6 and 7). The Commissioner notes that the complainant was therefore correct in his assertion that not all of the information which he had requested was planned for publication by the Iraq Inquiry and the Cabinet Office was wrong to state otherwise in their internal review.
14. The Cabinet Office confirmed that at the time of the request, all of the requested information was physically held by both the Cabinet Office and the Iraq Inquiry and that none of the requested information was in the public domain through official channels.
15. In his complaint to the Commissioner, the complainant sought to distinguish his request from previous Iraq Inquiry related cases involving section 22(1), stating that the documents which he had requested were *'almost entirely in the public domain, having been leaked in two batches over a decade ago'*.
16. The Commissioner has noted that documents matching the description of the document titles requested by the complainant were separately published by the Daily Telegraph on 18 September 2004 and the Sunday Times on 1 May and 12 June 2005. The documents were leaked to the journalist, Michael Smith. Copies of the leaked documents are widely publicly available through numerous websites and have been for more than 10 years¹.
17. However, for the purposes of FOIA, the unofficial 'leaking' of information does not equate to information being officially in the public domain. In

¹ A document matching the description of Document 7 is particularly prevalent on the internet and is often referred to as 'The Downing Street Memo'.

keeping with established policy, the Government has not previously commented on the authenticity or otherwise of the leaked information. The Commissioner has had sight of the withheld information but cannot confirm whether or not the information is the same as the leaked information referred to above. The Commissioner cannot take 'leaked' information into account when considering the public interest case for disclosure of the withheld information in this matter. The Commissioner expands further on this issue in a Confidential Annex attached to this notice.

18. The Commissioner considers that the scope of his investigation is to determine whether the Cabinet Office was entitled to rely on the exemptions maintained to the information requested.

Reasons for decision

Section 22(1)

19. This exemption has been applied to documents 2, 3, 4 and 5 in their entirety and to most of the information contained in documents 1, 6 and 7.
20. Section 22(1) states that information is exempt from disclosure if;
 - (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
 - (b) the information was already held with a view to such publication at the time when the request for information was made, and
 - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a)
21. The Cabinet Office explained that the information in scope is intended for publication by the Iraq Inquiry². As the complainant was aware, the Commissioner had previously addressed the process by which the Iraq Inquiry has published (and will be publishing) information which has been declassified and in the context of section 22(1) in a number of

² An Inquiry formally set up by the former Prime Minister Gordon Brown on 30 July 2009 to identify lessons that could be learned from the Iraq conflict. The Inquiry is led by Sir John Chilcot. Referred to in this notice as 'the Iraq Inquiry'.

previous decision notices, including FS50498664 and FS50579794. As noted, the complainant sought to distinguish this request by reference to the leaked documents discussed above. For the reasons explained in paragraph 17 (and the attached Confidential Annex) the Commissioner cannot take those leaks into account in his consideration of section 22(1).

22. In order to correctly rely on section 22, there must have been a settled intention to publish the requested information prior to the request being received. Since the withheld information predates the Iraq Inquiry by several years, the Commissioner notes that at the time that the Cabinet Office originally held the information it may not have been intended for future publication. However, at the time of the complainant's request (21 January 2015) there was a very clear intention that the relevant information would be published by the Iraq Inquiry when it published its report. It is therefore not correct to contend, as the complainant has, that there is no connection between the Cabinet Office holding the information and the intended publication of the information by the Iraq Inquiry.
23. The Cabinet Office confirmed that the publication date of the relevant information was not determined at the time of the request but stated that the application of section 22(1) was reasonable because there was a settled intention to publish the relevant exempted information at the time of the request. In submissions to the Commissioner the Cabinet Office advised that publication would take place when the Iraq Inquiry's role was complete and its report had undergone the national security checking process. Sir John Chilcot considered that that would be possible in June or July 2016. In fact the report was published on 6 July 2016.
24. In support of their contention that disclosure of the relevant information at the time of the request would have interfered with the Iraq Inquiry's process and undermined its work, the Cabinet Office noted that Sir John Chilcot had given evidence to the Foreign Affairs Select Committee on 4 February 2015 and had addressed the Iraq Inquiry's reluctance to publish declassified documents piecemeal prior to publication of the report. The Commissioner notes, at the time of drafting this notice, that whilst some previously sensitive documents have been declassified and published on the Iraq Inquiry's website, not all Iraq related documents have been declassified and their declassification remains to be agreed or approved by the Government.
25. The Cabinet Office advised the Commissioner that as Sir John's views had been given at the time that they were responding to the complainant's request they placed great weight on them and '*with the*

likely publication of the Inquiry's report only months away', found them even more compelling.

26. In the circumstances, the Commissioner accepts that there was a settled intention to publish the relevant information prior to the request and so section 22(1) is engaged to the relevant information within scope of the complainant's request. The Commissioner also considers that it was reasonable for the Cabinet Office to maintain its reliance on the future publication of the information by the Iraq Inquiry, rather than publish the information in response to the request. This conclusion is consistent with other previous decisions taken by the Commissioner in relation to documents intended for release in due course by the Iraq Inquiry³.

Public interest test

27. Section 22(1) is qualified by a public interest test. The Commissioner has therefore considered whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosure of the relevant information at the time of the request.
28. In their substantive response of 17 March 2015 to the request, the Cabinet Office recognised '*there is a general public interest in disclosure and the fact that openness in government increases public trust in and engagement with the government*'. The internal review did not comment on the public interest in favour of disclosure of the relevant information. The Commissioner considers that in their brief responses to this request the Cabinet Office was disappointingly silent on the public interest factors in favour of disclosing the specific requested information. As the Upper Tribunal made clear in *Department of Health v IC and Lewis* [2015] UKUT 0159 (AAC) in advancing public interest arguments both parties should try to identify the specific harms that would occur if the information was released, and the specific benefits of the information being released, rather than making generic arguments⁴.
29. However, the Commissioner acknowledges that the Cabinet Office have recognised the specific public interest in disclosure of Iraq related information in previous cases where section 22(1) was applied to

³ During the course of the Commissioner's investigation, it was announced that the Iraq Inquiry would be publishing its report on 6 July 2016

⁴ As referenced by the Independent Commission on Freedom of Information report of March 2016

exempt the same. In FS50579794, the Cabinet Office accepted that there is a strong public interest in understanding how decisions were made in relation to the UK's role in Iraq between 2001 and 2009. They also accepted that there is a strong public interest in an independent, full and frank Iraq Inquiry. The Cabinet Office position is that this public interest will be met when the Iraq Inquiry report is published.

30. In submissions to the Commissioner, the complainant made the following contention in respect of the public interest in disclosure of the relevant withheld information:

'The Cabinet Office, which set up the Inquiry, supports that desire of Sir John Chilcot to continue to suppress information that could be published now so that his inquiry, appointed by the government whose actions were in question, can have the first opportunity to interpret those documents. That is profoundly undemocratic and against the true interests of the public. The idea of releasing documents so that the public can make their own minds up seems to have been lost'.

31. As the Commissioner recognised in FS50498664, there is clearly an overwhelming public interest in understanding the UK's role in the Iraq conflict of 2003 and its aftermath. The Iraq Inquiry is intended to address this public interest and in order for it to do so it must be able to determine and complete the necessary processes, up to and including publication of the report.

32. The Cabinet Office has contended that the disclosure of the relevant information prior to the publication of the Iraq Inquiry report would interfere with and risk undermining the Inquiry's work. Sir John Chilcot has stated that it is very important that the Inquiry is judged by the quality of its report, which will contain footnoted references to documents which provide a chain of evidence for every single conclusion which the Inquiry will reach⁵. In light of the views expressed by Sir John Chilcot as to the damage which would be caused to the Inquiry's work by premature piecemeal disclosure of further declassified documents, the Cabinet Office confirmed to the Commissioner that it would not be in the public interest to disclose the relevant information before the publication of the Iraq Inquiry report.

33. The Commissioner considers that there is a very strong public interest in ensuring that the process and findings of the Iraq Inquiry are seen to be transparent and accountable. He considers that this important public

⁵ During evidence to the Foreign Affairs Select Committee on 4 February 2015

interest will be served by the publication of the Iraq Inquiry's report. In submissions to the Commissioner the complainant referred to public criticisms which have been made of the Inquiry and its lengthy duration and contended that, *'the idea that withholding information can preserve a situation in which publication of the Inquiry provides a definitive account of all relevant issues that is accepted without controversy has become completely untenable'*.

34. Given the hugely contentious issues which the Iraq Inquiry was tasked with considering and the number of individuals involved, no report of this nature would be likely to be generally *'accepted without controversy'*. However, the report, when published, will clearly provide the definitive account of all the relevant issues, whatever the level of public acceptance of its findings. Those findings will be evidence-based, with clear references to and publication of, the relevant declassified documents.
35. The Commissioner's position as regards requests for information relating to the Iraq Inquiry is well established and clear. Premature disclosure of such information would, or would be likely to significantly hinder or prejudice the Inquiry process. That would clearly not be in the public interest. As the Commissioner recently publicly noted⁶, *'FOI should not pre-empt the process or outcome of that Inquiry by piecemeal disclosures'*.
36. The Commissioner recognises that the duration of the Iraq Inquiry has been considerably longer than originally envisaged and this has understandably attracted much concern and criticism. Nevertheless, at the point when the Inquiry publishes its report, the public interest will be best served as all the relevant facts, evidence and information will then be available and the public will be able to *'make their own minds up'* on the relevant issues in a fully informed and complete context. The Commissioner does not consider that there is any persuasive or specific public interest case for premature disclosure of the relevant information prior to the planned publication of the Iraq inquiry report and that the complainant's arguments in this respect are misconceived.
37. The Commissioner is therefore satisfied that the public interest in maintaining the exemption to the relevant information within scope of the request outweighs any public interest in disclosing the information.

⁶ In a speech to the LSE on 1 October 2015

Non-Section 22(1) exempt information

38. Most of the information contained in documents 1, 6 and 7 is exempt by virtue of section 22(1) as it will be published at the time of the Iraq Inquiry report. However, some of the information contained in each of these documents was not intended for future publication at the time of the request and has been withheld by the Cabinet Office under sections 27(1)(a), 24(1) and 23(1). The Commissioner has had sight of the relevant information and the Cabinet Office provided him with submissions in support of each of the applicable exemptions.
39. The Commissioner will separately examine each of the exemptions in turn. However, due to the sensitivity of the information concerned he is unable to go into detail in the main body of this notice as to the nature of the withheld information or the specific arguments provided by the Cabinet Office in support of the exemptions without risking disclosure of the information or causing the adverse effects which each exemption is designed to protect. Such detail is contained in a Confidential Annex attached to this notice.
40. However, the Commissioner considers it important to note, as evidence of the proportionality of the redactions applied by the Cabinet Office, and because it has a bearing on the public interest attached to the information concerned, that the vast majority of the information contained in the three documents concerned is subject to section 22(1) and therefore will be published in due course. The residual withheld information contained in all three documents amounts to approximately 14 lines of text.

Section 27 – international relations

41. Section 27(1)(a) provides that information is exempt if its disclosure would, or would be likely to prejudice relations between the UK and any other State.
42. In order for a prejudice based exemption such as section 27(1)(a) to be engaged the Commissioner considers that three criteria must be met:
 - 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;
 - 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;
and

- Thirdly, it is necessary to establish whether the level of likelihood of prejudice being relied upon by the public authority is met – ie, disclosure 'would be likely' to result in prejudice or disclosure 'would' result in prejudice. In relation to the lower threshold 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. With regard to the higher threshold, in the Commissioner's view this places a stronger evidential burden on the public authority. The anticipated prejudice must be more likely than not.
43. 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 otherwise have been necessary'*⁷.
44. With regard to the first criterion of the three limb test described above, the Commissioner accepts that potential prejudice to the UK's relations with the States named in the withheld information clearly relates to the interests which the exemption contained at section 27(1)(a) is designed to protect.
45. In respect of the second criterion, having had sight of the specific withheld information and the detailed arguments provided by the Cabinet Office (contained in the Confidential Annex to this notice) the Commissioner is satisfied that disclosure of the candid and confidential information has the potential to harm the UK's relations with the States concerned. The Commissioner is satisfied that there is a causal link between the potential disclosure of the withheld information and the interests which section 27(1)(a) is designed to protect. The Commissioner is also satisfied that the resultant prejudice contended by the Cabinet Office can be correctly described as being real and of substance. That is to say, subject to meeting the likelihood test at the third criterion, disclosure of the information concerned could make relations more difficult with the relevant States or require a particular damage limitation exercise.

⁷ Campaign Against the Arms Trade v The Information Commissioner and Ministry of Defence (EA/2006/0040), paragraph 81.

46. In submissions to the Commissioner the Cabinet Office confirmed that they are contending that the prejudice to relations between the UK and the relevant States would, or would be likely to occur if the specific information were disclosed. Having had sight of the information concerned and confidential submissions from the Cabinet Office, the Commissioner is satisfied that disclosure would at least be likely to result in the prejudice claimed. He therefore finds the relevant redacted information to be exempt from disclosure under section 27(1)(a).

Public interest test

47. Section 27 is a qualified exemption and therefore the Commissioner must consider the public interest test and determine whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Public interest in disclosure of the information

48. As he is not aware of what specific information is being withheld by the Cabinet Office under this exemption, the complainant was at an unavoidable disadvantage in not being able to provide the Commissioner with specific public interest arguments in favour of disclosure.
49. In submissions to the Commissioner the Cabinet Office recognised that there *'is a general public interest in being able to evaluate the foreign policy of the government and in particular the government's policy towards Iraq'*. The Cabinet Office recognised that disclosure of the withheld information *'may also contribute to increasing transparency and openness and improving the trust and confidence the public has towards the Government and the way it works and interacts with other States'*.

Public interest in favour of maintaining the exemption

50. The Cabinet Office advised the Commissioner that they considered that there was a stronger public interest in the UK being able to successfully pursue its national interests. The Cabinet Office stated that the UK was more likely to do so *'if we conform to the conventions of international behaviour, avoid giving offence to other nations and retain the trust of our international partners'*.
51. The Cabinet Office emphasised that it was important for the Government to maintain trust and confidence with other governments and they considered that if the information to which section 27(1)(a) applied was disclosed then this trust and confidence would be undermined. This would be likely to prejudice the UK's ability to protect and promote its interests because the UK's international reputation would be damaged. Taking into account all the circumstances of the case, the Cabinet Office

concluded that the balance of the public interest favoured withholding the information.

Balance of the public interest

52. The Commissioner recognises that given the ongoing controversy surrounding the UK's involvement in the Iraq conflict of March 2003, there is clearly an important public interest in information which would provide insight into the UK's pre-conflict assessments of and comments on other States, including NATO allies. Disclosure of the withheld information would provide the public with further insight (beyond that already in the public domain) into some of the geopolitical factors and concerns which influenced the UK's decisions in the months preceding the commencement of military action.
53. However, in the Commissioner's view there is a very strong and wider public interest in protecting the UK's relations with other States. This public interest has particular weight in this case given the importance and influence of the States concerned in global affairs. Having seen the withheld information (which forms the majority of the small amount of information redacted from the three documents concerned), the Commissioner considers that the degree of additional transparency and accountability which disclosure of the information would bring to the factors which influenced the UK government at the time is limited and is substantially outweighed by the harm which would, or would be likely to be caused to UK relations with the countries concerned. Such harm would have consequences and impact far wider than the UK's relations with the relevant States in respect of Iraq.
54. The Commissioner has therefore concluded that the public interest in maintaining the exemption outweighs the public interest in disclosing the specific and small amount of withheld information.

Section 23(1) – information supplied by or relating to bodies dealing with security matters

55. In submissions to the Commissioner the Cabinet Office confirmed that a small amount of the withheld information (two sentences) was exempt from disclosure on the basis of the exemption contained at section 23(1) of FOIA.
56. Section 23(1) of FOIA provides that:

'Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).'

57. To successfully engage the exemption at section 23(1), a public authority needs only to demonstrate that the relevant information was directly or indirectly supplied to it by, or relates to, any of the bodies listed at section 23(3)⁸. This means that if the requested information falls within this class it is absolutely exempt from disclosure under FOIA. This is no requirement on the public authority to demonstrate that disclosure of the requested information would result in some sort of harm. This exemption is not subject to the public interest test.
58. When investigating complaints involving the application of section 23(1), the Commissioner will need to be satisfied that the relevant information was in fact supplied by a security body or relates to such a body, if he is to find in favour of the public authority.
59. In this case the Commissioner has had sight of the two sentences of information to which section 23(1) has been applied. One of the pieces of information was clearly directly supplied to the Cabinet Office by one of the section 23(3) bodies and the other clearly relates to one or more such bodies. Consequently, the Commissioner is satisfied that section 23(1) has been correctly applied to the small amount of information concerned.

Section 24(1) – national security

60. In submissions to the Commissioner the Cabinet Office confirmed that a small amount of the withheld information (one word) was exempt from disclosure on the basis of the exemption contained at section 24(1) of FOIA.
61. Section 24(1) of 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'.
62. Although the FOIA does not contain a definition of national security the Information Tribunal has noted the following:
 - 'national security' means the security of the United Kingdom and its people;

⁸ A full list of the bodies detailed in section 23(3) is available here:

<http://www.legislation.gov.uk/ukpga/2000/36/section/23>

- 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 combatting international terrorism is capable of promoting the United Kingdom's national security.⁹
63. With regard to the wording of the exemption, the Commissioner interprets 'required' in the context of section 24 to mean reasonably necessary and therefore this sets a high threshold which has to be met in order for this exemption to be engaged. Consequently, it is not sufficient for the requested information simply to relate to issues of national security, rather there must be evidence of specific and real threats to national security which would occur if the requested information was disclosed, albeit that such threats do not have to be direct or immediate.
64. The Commissioner has had sight of the information which has been withheld on the basis of section 24(1) and the Cabinet Office provided the Commissioner with submissions to explain why it believed that disclosure of this information would threaten the UK's national security. The Commissioner cannot refer to these submissions in this notice as to do so would reveal the withheld information, but the submissions are contained in the Confidential Annex attached to this notice.
65. Having had sight of the withheld information and having considered the submissions provided by the Cabinet Office, the Commissioner accepts that withholding this information is required for the purposes of safeguarding national security.

Balance of the public interest

66. Section 24(1) is a qualified exemption which means that it is subject to a public interest test. Therefore, the Commissioner also had to consider whether in all the circumstances of the case, the public interest in

⁹ Norman Baker v the Information Commissioner and the Cabinet Office (EA/2006/0045 4 April 2007)

maintaining the exemption outweighs the public interest in disclosing the information withheld on that basis.

67. As noted previously in this notice, the Commissioner recognises that there is a huge and compelling public interest in understanding the UK's role in the Iraq conflict of 2003 and its aftermath. Any information which would advance this vital public interest will carry substantial weight in favour of disclosure. However, the Commissioner considers that disclosure of the particular information withheld under this exemption would not add to or advance the public understanding of the UK's role in the Iraq conflict in any meaningful way and the value of the specific information in terms of transparency and accountability is extremely limited.
68. The Commissioner considers that the very strong and important public interest in safeguarding national security heavily outweighs the public interest value of this specific information and that therefore the public interest favours maintaining section 24(1).

Right of appeal

69. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

70. 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.
71. 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

Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF