



Knowledge and Information Management Unit
2 Marsham Street
London SW1P 4DF

020 7035 4848 (switchboard)

www.gov.uk

Edward Williams
By Email:

9 August 2022

Dear Mr Williams

Freedom of Information request (our ref: 70435): internal review

Thank you for your email of 13 July 2022, in which you asked for an internal review of the response to your Freedom of Information (FOI) request. Your request of 15 June 2022, asked for invoices or similar concerning the flight organised by the Home Office to relocate asylum seekers to Rwanda. Your request can be viewed in full at **Annex A**.

I have now completed the review and have assessed the substance of the response provided to you. I can confirm that I was not involved in the initial handling of your request.

The FOI response explained that the information you had requested was held by the Home Office, but that it was exempt from disclosure under the exemption at section 43(2) (commercial interest) of the Act. A full copy of the response can be found in **Annex B**.

Your request for an internal review can be found in full at **Annex C**.

I have carefully considered your comments and consulted the business area.

I am satisfied that the original response correctly cited section 43(2) of the Act. The information requested is commercially sensitive information. To disclose the information you have requested would have a detrimental effect on carriers.

Release would undermine the competitive procurement process in the aircraft operator market. All pricing information is confidential and commercially sensitive. All flights are procured by creating competition between all suitable airlines and aircraft that are technically compliant in meeting the specific

requirements of the customer. Releasing details of price undermines the integrity and the competitive nature of the procurement exercise. Following the COVID-19 pandemic, the availability of operating aircraft has already considerably reduced. There would be a direct negative impact on customers due to lack of availability and price increase.

All third-party aircraft operators and other service providers that are used to operate charter flights include confidentiality clauses within their contract for each flight. Pricing information is considered confidential and therefore if released, this would breach the confidentiality obligations that are in place.

The Home Office has carefully weighed both the considerations in favour of disclosure against those to withhold the information you have requested. However, the information it concerns is commercially sensitive information, that if released, would prejudice the commercial interests of the providers. I accept that there is a public interest in disclosure to ensure that there is full transparency in the Home Office's use of public funds. However, disclosing information concerning costs associated with the flight organised by the Home Office would cause reputational damage to the contractors and prejudice their commercial position and put them at a disadvantage with other competitors.

Further to this, as the airline in this case has been widely and clearly identified, any costs released will be directly attributed to that airline.

I therefore agree that the public interest test falls in favour of maintaining the exemption.

In conclusion, I am satisfied that the original response was correct. The exemption at section 43(2) of the Act was found to be engaged for the reasons outlined above. I am sorry if this is disappointing, but I hope the explanation above has helped explain the reason for the response in this case.

This completes the internal review by the Home Office.

Yours sincerely

M Cumberbatch
Information Rights Team

Annex A - original FOI Request 70435 15 June 2022

Subject: Freedom of Information request - Cost of flight to Rwanda

Dear Home Office,

disclose the invoice (or similar) for plane to fly migrants to Rwanda on 14 June 2022.

Annex B - original response 13 July 2022

Edward Williams

Thank you for your email of 15 June, in which you ask us to disclose invoices concerning the flight organized by the Home Office to relocate asylum seekers to Rwanda. Your request, which can be found in full at **Annex A**, has been handled as a request for information under the Freedom of Information Act (FOIA) 2000.

I can confirm that the Home Office holds the information that you have requested. However, after careful consideration we have decided that the information is exempt from disclosure under section 43 (commercial interest) of the FOIA.

This is a qualified exemption and requires consideration of the public interest test. We have concluded the public interest lies in favour of withholding the information. The arguments we considered, both for and against disclosure, are set out in **Annex B**.

In reviewing our response, you should note that every week the Home Office removes, to different countries, people who have no right to be in the UK. During the COVID-19 pandemic we have continued to deport foreign national offenders and return other immigration offenders where flight routes have been available to us, both on scheduled and charter flights.

The Government's efforts to facilitate entirely legitimate and legal returns of people who have entered the UK illegally are often frustrated by late challenges submitted hours before the flight. These claims are often baseless and entirely without merit but are given full legal consideration which can lead to removal being rescheduled. Some operations also have to be cancelled or deferred for reasons related to COVID-19.

We are looking to address some of this through the [New plan for Immigration](#) which aims to more easily remove those with no right to be in the UK.

Costs for individual flights will vary due to a number of different factors. The use of charter flights is a standard part of Immigration Enforcement activity. Scheduled commercial flights are used for the majority of returns but this is not always an option. We work with an independent commercial broker to ensure we get best value for money.

Further information on returns can be found at: [Returns and Charter Flight Factsheet \(May 2022\) - Home Office in the media \(blog.gov.uk\)](#)

If you are dissatisfied with this response you may request an independent internal review of our handling of your request by submitting a complaint within two months to foirequests@homeoffice.gsi.gov.uk, quoting reference **70435**. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

As part of any internal review the Department's handling of your information request would be reassessed by staff who were not involved in providing you with this response. If you were to remain dissatisfied after an internal review, you would have a right of complaint to the Information Commissioner as established by section 50 of the FOIA.

A link to the Home Office Information Rights Privacy Notice can be found in the following link. This explains how we process your personal information: <https://www.gov.uk/government/publications/information-rights-privacy-notice>

Yours sincerely,

Immigration Enforcement Secretariat

ImmigrationEnforcementFOIPQ@HomeOffice.gov.uk

Freedom of Information Request – 70435

I can confirm that the Home Office holds the information that you have requested.

However, after careful consideration we have decided that the information is exempt from disclosure under section 43(2) of the Freedom of Information Act 2000.

Section 43(2) allows us to exempt if disclosure would, or would be likely to, prejudice the commercial interests of any person.

The use of this exemption requires us to consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Arguments for and against disclosure, with the reasons for our conclusion, are set out as follows: Some of the exemptions in the FOIA, referred to as 'qualified' exemptions, are subject to a public interest test (PIT). This test is used to balance the public interest in disclosure against the public interest in maintaining the exemption. We must carry out a PIT where we are considering using any of the qualified exemptions in response to a request for information.

The 'public interest' is not necessarily the same as what interests the public. In carrying out a PIT we consider the greater good or benefit to the community as a whole if the information is released or not. Transparency and the 'right to know' must be balanced against the need to enable effective government and to serve the best interests of the public.

The FOIA is 'applicant blind'. This means that we cannot, and do not, ask about the motives of anyone who asks for information. In providing a response to one person, we are expressing a willingness to provide the same response to anyone.

Considerations in favour of disclosing the information

There is a general public interest in the disclosure of information to ensure departmental transparency and accountability. There is also a general public interest in providing information to enable the public to understand decisions which may affect them and how the government allocates taxpayers money. There is also a public interest in Government departments being able to secure contracts that represent value for money.

Considerations in favour maintaining the exemptions

We have considered the public interest there may be in maintaining the exemption and not providing you with the information requested. These reasons must be balanced against the requirement to be open and transparent, together with the risk of releasing information.

There is a public interest in the Home Office being able to secure charter aircraft contracts that represent value for money. Anything that would undermine this and undermine our ability to return foreign national offenders

and immigration offenders in the future is clearly not in the public interest. We must maintain the ability to reach agreements and maintain cooperation with commercial and other partners.

Value for money can be best obtained where there is a healthy competitive environment, coupled with the protection of Government's commercial relationships with industry. Were this not the case, there would be a risk that companies would be discouraged from dealing with the public sector, fearing disclosure of information that may damage them commercially. Likewise, by releasing details of flight operators and airports, we would be likely to discourage them from working with the Home Office in future. Those who oppose charter flights could use this information to target flight operators and departure ports, causing them commercial damage. This could lead to other customers opting not to use their services, thereby affecting their future revenue. If affected flight operators and airports opted not to work with the Home Office in future, this would likely result in competitors charging the Home Office more for these services, which would have a detrimental effect on the ability of the Home Office to operate an effective immigration control and provide value for money to the taxpayer, which is in the public interest.

Conclusion

We conclude that the considerations in favour of maintaining the exemptions outweigh those in favour of disclosing the information, and therefore that the balance of the public interest lies in withholding the information requested.

Annex C – internal review request dated 13 July 2022

Dear Home Office,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Home Office's handling of my FOI request 'Cost of flight to Rwanda'.

Annex D – Complaints Procedure

If you remain dissatisfied with the response to your FoI request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

<https://ico.org.uk/make-a-complaint/>