



Home Office

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www.gov.uk/home-office

Nick Heath
Request-266710-27e53826@whatdotheyknow.com

22 July 2015

Dear Mr Heath

Freedom of information request (our ref. 35285): internal review

Thank you for your e-mail of 28 May, in which you asked for an internal review of our response to your Freedom of Information (Fol) request about computers running Windows XP.

I have now completed the review. I have examined all the relevant papers, including the information that was withheld from you, and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and assessed the reasons why information was withheld from you. I confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My conclusion is that the original response was correct and I uphold the application of the exemptions at section 24 (1) and section 31(1) (a) of the Act.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your Fol 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

Yours sincerely

J Conquest
Information Access Team

Internal review of response to request under the Freedom of Information (Fol) Act 2000 by Nick Heath (reference 35285)

Responding Unit: Corporate Services Home Office Technology HOT

Chronology

Original Fol request: 5 May 2015

HOT response: 18 May 2015

Request for internal review: 28 May 2015

Subject of request

1. Mr Heath asked seven questions regarding computers running on Windows XP. A copy of his request is attached in Annex A.

The response by HOT

2. The response stated that the requested information is exempt from disclosure under section 24 (1) and 31(1) (a) of the Freedom of Information Act. This provides that information can be withheld where disclosure would prejudice the national security of the UK or that release would, or would be likely to, prejudice the prevention and detection of crime and the public interest falls in favour of applying the exemption.

3. Sections 24 (1) and 31(1) (a) of the Act are both qualified exemptions and require the consideration of the public interest test. These arguments were set out in the response. A copy of the response is at Annex B. The public interest arguments are also set out in the Annex.

Mr Heath's request for an internal review

4. Mr Heath requested an internal review. The full text of the request for an internal review is at Annex C.

Procedural issues

5. Section 10 (1) of the Act specifies that a public authority must comply with section 1(1) of the Act not later than the twentieth working day following the date of receipt. The request was received on 5 May and a response was due to be sent on 3 June 2015. A response was sent on 18 May 2015, this constitutes 8 working days, therefore in compliance with section 10.

6. Mr Heath was informed in writing of his right to request an independent internal review of the handling of his request, as required by section 17(7) (a) of the Act and of his right of complaint to the Information Commissioner as required by section 17(7) (b) of the Act.

7. The Home Office complied with sections 17(1) (a), 17(1) (b) and 17(1) (c) as the response specified the exact exemptions in question it relied upon and provided sufficient detail as to why the exemptions were applied.

Consideration of the response

8. The response explained the public interest considerations in respect of the exemptions applied. I have considered these again as part of this review.

Section 24 (1), national security

9. Revealing the security measures that have been put in place to protect any systems still running Windows XP would give an attacker the ability to craft an attack to bypass these.

Section 31 (1) (a), the prevention and detection of crime

10. The extent that the Home Office may still run computers on Windows XP is information that requires protection.

Revealing this would highlight any vulnerabilities to an attacker. Also in providing a date by which any vulnerable system will be updated would provide a timeline for any potential attacker to plan and conduct an attack.

11. Disclosing information relating to any potential support deal for Windows XP would tell an adversary that there are vulnerabilities in the IT system.

12. It is not in the public interest to put Government departments' IT systems at risk and hence section 31(1) (a) is engaged.

13. Whether or not it would be 'trivial' for a malicious party to determine which version of an operating system is in use does not mean that section 31(1)(a) is not engaged. Releasing any of this information would provide assistance to a malicious party to commit a criminal offence and it would be against the public interest for a department to do so. Furthermore, departments must respond to FOIA requests based on the information they hold and with due respect to the public interest. A department is not under any obligation to respond in the same way as another department.

14. Indeed the link which Mr Heath included in support of his review request regarding the Met police situation contains the following helpful clarification:

"Darien Kindlund, Director of Threat Intelligence at cybersecurity company FireEye told me. "We're now about a year after the official XP end-of-life date, so the fact of the matter is that as time progresses, attackers will have more and more pathways to compromising these kinds of legacy operating systems." It also states that the Met's [computer] systems are still more vulnerable than they would be with some that are more up to date."

15. This supports the argument that the information you have requested should be withheld.

I conclude that the balance of the public interest lies in withholding the information requested.

Conclusion

16. In conclusion I find that;

- Section 24(1) and 31(1) (a) were applied correctly to withhold information relating to computers running on Windows XP and the public interest falls in favour of applying the exemptions.

ANNEX A

Subject of FOI request from Mr Heath

1. How many computers are still running Windows XP?
2. When do you anticipate you will transition all of these XP machines to a new operating system? Which operating system are you switching these machines to?
3. What parts of the department are these machines mainly used in?
4. How are you securing the XP machines in the interim period before their operating system is replaced?
5. Have you taken out an Extended Support deal with Microsoft to update these XP machines?
6. What is the cost of this Extended Support deal?
7. When does this Extended Support deal expire?

Annex B

HOT Response of 18 May 2015

Thank you for your e-mail of 5 May 2015. Your request has been handled as a request for information under Freedom of Information Act 2000.

The FOI asks

1. How many computers are still running Windows XP?
2. When do you anticipate you will transition all of these XP machines to a new operating system? Which operating system are you switching these machines to?
3. What parts of the department are these machines mainly used in?
4. How are you securing the XP machines in the interim period before their operating system is replaced?
5. Have you taken out an Extended Support deal with Microsoft to update these XP machines?
6. What is the cost of this Extended Support deal?
7. When does this Extended Support deal expire?

After careful consideration we have decided that the requested information is exempt from disclosure under section 24 (1) and 31(1) (a) of the Freedom of Information Act. This provides that information can be withheld where disclosure would prejudice the national security of the UK or that release would or would be likely to, prejudice the prevention and detection of crime and the public interest falls in favour of applying the exemption.

Sections 24(1) and 31(1) (a) of the Act are both qualified exemptions and require the consideration of the public interest test. These arguments are set out in the **Annex**.

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 the address below, quoting reference 35285. If you ask for an internal review, it would be helpful if you could say why you are dissatisfied with the response.

Information Rights Team
Home Office 3rd Floor, Peel
2 Marsham Street
London
SW1P 4DF
E-mail: FOIRequests@homeoffice.gsi.gov.uk

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

Annex B – continued

Public interest test

Some of the exemptions in the FOI Act, 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 favour of withholding the information, or the considerations for and against the requirement to say whether the information requested is held or not. 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 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. The ‘right to know’ must be balanced against the need to enable effective government and to serve the best interests of the public.

The FOI Act 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, including those who might represent a threat to the UK.

Section 24(1) of the Act

The Home Office considers information you have requested to be exempt from disclosure on the grounds that release would prejudice national security. The information is thereby withheld under the exemption at section 24(1) of the Act. This exemption is defined in the Act as follows:

24(1) Information which does not fall within subsection 23(1) is exempt information if exemption from section 1(1) (b) is required for the purpose of safeguarding national security.

Section 31(1) (a) of the Act

The Home Office considers information you have requested to be exempt from disclosure on the grounds that release would or would be likely to, prejudice the prevention and detection of crime. The information is thereby withheld under the exemption at section 31(1) (a). This exemption is defined in the Act as follows:

31 (1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice:

- (1) The prevention or detection of crime

Public interest arguments in favour of disclosing information under sections 24(1) and 31(1) (a)

The Home Office recognizes that there is a general public interest in openness and transparency in all aspects of Government. The release of this information would indicate versions of IT software in operation at the Home Office. Transparency in this matter would enhance the public's knowledge of systems and processes in place, and to some limiting degree, how public money and resource is used.

Public interest arguments in favour of withholding information under sections 24(1) and 31(1) (a)

Disclosure of information would not be in the interest of the UK's national security. It is considered that to provide details about Windows would provide useful information to those who might seek to commit crime by allowing them to potentially hack into and attack Home Office IT systems – this is clearly not in the public interest. Furthermore, disclosure would also undermine the HO's key role in the infrastructure of the UK and its ability to safeguard national security. There is clearly a strong public interest in doing everything we can to detect and prevent crime, and protect the public at

large. It is considered that disclosure of the requested information would prejudice both the prevention of crime, and national security.

We conclude that the balance of the public interest lies in withholding the information.

Annex C

Full text of Internal Review request from Mr Heath

I am writing to request an internal review of Home Office's handling of my FOI request 'Computers running Windows XP' – Ref No: 35285.

Several other central government departments have not claimed an exemption under section Section 24(1) or 31(1) (a) of the FOI Act in response to these question. The Metropolitan Police Service also answered such questions without claiming such an exemption, see <http://motherboard.vice.com/read/londons-metropolitan-police-has-over-35000-computers-running-windows-xp>. Given that these exemption were not relevant in the case of other central government departments and one of the UK's largest police forces, I don't believe them to be relevant in the case of the Home Office. Furthermore the argument that this information “would provide useful information to those who might seek to commit crime by allowing them to potentially hack into and attack Home Office IT systems” or that it would pose a risk to national security does not stand up, as such information would be trivial for anyone with the technical expertise to carry out a hack to find out.

A full history of my FOI request and all correspondence is available on the Internet at this address:

<https://www.whatdotheyknow.com/request/c>