



Foreign & Commonwealth Office

Intelligence Policy Department
Foreign and Commonwealth Office
King Charles Street
London
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Website: <https://www.gov.uk>

Mr Edward Williams

Via email to request-576612-aad45c6f@whatdotheyknow.com

14 June 2019

Dear Mr Williams

FREEDOM OF INFORMATION ACT 2000 REQUEST REF: 0454-19 and 0455-19

Thank you for your emails of 15 May asking for information under the Freedom of Information Act (FOIA) 2000. You have asked the following two separate but similar requests which we will answer with one response:

"In 2014, following the Edward Snowden disclosures, it was revealed that the UK security and intelligence services use hacking techniques in bulk to gain access to potentially millions of devices, including computers and mobile phones.

Privacy International challenged these mass hacking practices in the IPT, which hears claims against the UK intelligence services. During the proceedings, the government asserted that it could rely on broad 'general warrants', not based on reasonable individual suspicion, to conduct hacking. The UK Government even argued that it would be lawful in principle to use a single warrant to hack every mobile phone in a UK city. In February 2016, the IPT held that this was lawful. "

Our initial claim in the Investigatory Powers Tribunal (IPT) in 2014 was about GCHQ's computer hacking operations. We further alleged that GCHQ hacking violates Articles 8 and 10 of the European Convention on Human Rights, which respectively protect the right to privacy and the right to freedom of expression and also were unlawful under UK law. In February 2016, the IPT held that GCHQ hacking is lawful under UK law and the European Convention on Human Rights. The IPT further concluded that GCHQ may hack inside and outside of the UK using "thematic warrants." Thematic warrants are general warrants covering an entire class of property, persons or conduct, such as "all mobile phones in London."

Request number one:

I would like to see all the 'general warrants' and/or thematic warrants. These are ones which are not based on reasonable individual suspicion (our case reference 0454-19).

Request number two:

I would like a dated list of all the 'general warrants' and/or thematic warrants. These are ones which are not based on reasonable individual suspicion. Please state the start and end date of the warrant's duration. (our case reference 0455-19).

I can confirm that the Foreign and Commonwealth Office (FCO) does hold information relevant to your two requests. Some of the information has been assessed as falling under the exemption in Section 23(1) of the FOIA. This is an absolute exemption and is therefore not subject to the public interest test. The reason the exemption applies is that the information was directly or indirectly supplied to the Foreign and Commonwealth Office by, or relates to, one of the bodies specified in subsection 23(3).

Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances sections 40(2) and 40 (3A)(a) of the FOIA apply. In this case, our view is that disclosure would breach the data protection principle that personal data should be processed lawfully, fairly and transparently. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure. In such circumstances, s.40 confers an absolute exemption on disclosure. There is, therefore, no public interest test to apply.

Some of the information you have requested is exempt under section 42(1). Section 42(1) of the FOIA recognises the validity of withholding information that is subject to Legal Professional Privilege (LPP), which exists in order to encourage clients to be frank and open with their legal adviser. It is important that the government is able to seek legal advice so that it can make its decisions in the correct legal context. The legal adviser must be in possession of all material facts in order to provide sound advice. The government must therefore feel confident that it can disclose *all* relevant facts to its legal adviser. It should be able to do so without fearing that this information will be disclosed to the public. In turn the legal adviser will consider the issues and the arguments and weigh up their relative merit.

Once an FOI request is answered, it is considered to be in the public domain. To promote transparency, we may now publish the response and any material released on gov.uk in the [FOI releases](#) section. All personal information in the letter will be removed before publishing.

If you would like a review of our decision, or if you wish to make a complaint, please write to the Central FOI Unit, Foreign and Commonwealth Office, Room WH2.177, King Charles Street, London, SW1A 2AH. E-mail: foi-dpa.pmcs@fco.gov.uk. You have 40 working days to do so from the date of this letter.

You can apply directly to the Information Commissioner. However, the Information Commissioner will not normally make a decision unless you have first exhausted the complaints procedure provided by the FCO. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely,

Intelligence Policy Department



We keep and use information in line with the Data Protection Act 2018. We may release this personal information to other UK government departments and public authorities.