

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 April 2023

**Public Authority:** Foreign, Commonwealth & Development Office

**Address:** King Charles Street  
London  
SW1A 2AH

#### **Decision (including any steps ordered)**

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1. The complainant has requested information about late family members who were involved in historically significant activities during the British rule of Palestine. The Foreign, Commonwealth & Development Office (FCDO) cited section 12 (cost of compliance), section 14 (repeat requests) of FOIA to refuse to comply with the request and section 21 (accessible by other means) to withhold information.
2. The Commissioner's decision is that FCDO was correct to rely on section 12(2), section 14(2) and section 21(1) of FOIA in the manner that it has done.
3. The Commissioner does not require FCDO to take any further steps.

#### **Background**

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4. The complainant submitted a previous request for information to FCDO on 5 July 2021, in the following terms:

"We would like to request under FOI regulations copies of all information concerning the following individuals:

1. Name: David Cheifetz or Hefetz (former Palestinian Police Officer)
  2. Hanoch Strelitz AKA Hanoch Kalai
  3. Mordechai Strelitz
  4. Michael Strelitz
  5. Menachem Strelitz
  6. Sarah Strelitz
  7. Yosef Shabtai Strelitz
  8. Pessia Strelitz"
5. Following some further correspondence between the complainant and FCDO to clarify the identity of the individuals and the timeframe of the information which the complainant was seeking, the FCDO provided its response in three parts between 29 July 2021 and 4 August 2021.
  6. FOI2021/17890 related to person 1 (as set out in the wording of the initial request). FCDO cited section 12 of FOIA to refuse this part of the request, but provided advice and assistance by way of links to records held by The National Archives which might have been of interest to the complainant. It also advised that The Middle East Centre Archive (St Antony's College, Oxford) holds service record cards for British and Palestinian (Jewish and Arab) Policemen who served at the end of the Paletinian Mandate, which might assist the complainant's research. Following an internal review, FCDO maintained its initial position, and supplied links to further files of possible relevance held by The National Archives.
  7. FOI2021/17891 related to persons 2-6. FCDO located some relevant information from its Indexes of Correspondence. It explained that these indexes were available to view at The National Archives or online, and provided links to each relevant index. It also advised that it had identified a file held at the National Archives which might assist the complainant's research, and provided a link to that file. FCDO advised that searches of its own records had located no further information about persons 2-6. Following an internal review, FCDO maintained its initial position, but supplied links to further files of possible relevance held by The National Archives.

8. FOI2021/17892 related to persons 7-8. FCDO clarified that it had searched for information from 1924-1948, but that it had not located any information relevant to persons 7-8. The complainant did not request an internal review for this response.

## **Request and response**

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9. On 11 June 2022, the complainant wrote to the FCDO and requested information in the following terms:

"I wish to renew an FOI request for information I previously requested

The previous requests were given the reference numbers:

FOI2021/17890

FOI2021/17891

FOI2021/17892

Following advice from the FCDO and an internal review I made several trips to the National Archives in search of information but found no relevant documents.

I have been subsequently informed by [redacted] of The National Archives that the requested information is in fact held by DFID.

In addition to renewing the above requests, I would also like to know the extent of the Palestine Police CID records held by FCDO."

10. FCDO responded on 5 July 2022. It refused the request, relying on section 14 in respect of all eight of the named individuals, and on section 21 in respect of "the extent of the Palestine Police CID records".
11. Following an internal review FCDO wrote to the complainant on 1 November 2022. It maintained its reliance on section 14 and section 21, but now relied additionally on section 12(2) as its basis for refusing the request.

## **Reasons for decision**

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### **Persons 2-8**

#### **Section 14(2) – repeat requests**

12. Section 14(2) of FOIA provides that where a public authority has previously complied with a request for information which was made by

any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

13. The Commissioner's guidance<sup>1</sup> goes on to explain that a public authority may only apply section 14(2) if it has previously provided the same requester with the information, or if it has previously confirmed, to that requester, that it does not hold the information.
14. FCDO explained that when it received the request previously in July 2021, it conducted searches on the names provided and also researched background information, using information provided by the requester as well as open sources. FCDO also conducted searches using key words such as 'Jewish detainees', 'Eritrea', 'Stern', 'Irgun', 'Palestine' as well as combinations of the key words and the names of the individuals.
15. FCDO further explained that, given the age of the events which the requested information relate to, any relevant records that it had previously held (if indeed it had previously held any) would have been transferred to the National Archives. FCDO confirmed that the only records which it had been unable to search were the Palestine Police Service Records. However, as Persons 2-8 were not members of the Palestinian Police Force these records would not be relevant.
16. The legislation does not define what a "reasonable period of time" is and the Commissioner considers that each case must be judged on its own facts. The role of the Commissioner in a case such as this one, is to consider the time between the submission of the requests, along with any change in circumstances which may have occurred between the requests, which might indicate that the public authority should now hold additional relevant information which it did not hold when the request was originally submitted.
17. The Commissioner notes the complainant's reference to advice which they received from TNA, which stated that potentially relevant information is held by FCDO. However, that advice only relates to the Palestine Police Service records. FCDO is not disputing that it holds these records but, as Persons 2-8 did not serve in the Palestinian Police, those records will not contain relevant information.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/dealing-with-repeat-requests/>

18. It is not the Commissioner's role to determine whether FCDO correctly informed the complainant, in 2021, that it did not hold information relating to Persons 2-8. If the complainant wished to challenge that response, it was open to him to complain to the Commissioner at that time.
19. FCDO is unlikely to have come into possession of additional relevant records since the first request was made. No new lines of enquiry or previously unsearched areas (that would realistically contain relevant information) have been suggested. Therefore, given the extent of the searches carried out by FCDO at that time of the original request, the Commissioner does not consider that it would be reasonable for FCDO to issue a fresh response to this part of the request when it would simply repeat the previous position.
20. The Commissioner is therefore satisfied that FCDO was entitled to rely on section 14(2) of FOIA to refuse the parts of the request seeking information about Persons 2-8.

## **Person 1**

### **Section 12 – cost of compliance exceeds appropriate limit**

21. Section 14(2) of FOIA cannot be relied on to refuse the request as it relates to Person 1, because FCDO did not comply with the previous request – as FCDO was entitled to rely on section 12 to refuse to comply with that request.
22. Section 12(2) of FOIA provides that a public authority is not obliged to confirm or deny whether requested information is held if it estimates that merely identifying whether relevant information is held would incur costs in excess of the "appropriate limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
23. The appropriate limit is set in the Fees Regulations at £600 for central government, legislative bodies and the armed forces and at £450 for all other public authorities. The Fees Regulations also specify that the cost of the work required in order to be able to confirm or deny whether information is held must be calculated at the rate of £25 per hour, therefore imposing an appropriate limit on FCDO of 24 hours or £600.
24. FCDO explained that it had been able to search its archives apart from a collection of Palestine Police Service personnel records which are awaiting review under the Public Records Act 1958. This collection of records had previously been transferred to the British Empire and Commonwealth Museum in Bristol by the former Department for

International Development (DFID). On closure of the museum the records were returned to DFID in no discernible order.

25. FCDO confirmed that there are 176 boxes, with each box containing an average of 44 records. The records remain unstructured, unlisted and not easily searchable, therefore FCDO would need to manually search through all of the records individually to confirm whether or not it holds any information about Person 1.
26. FCDO explained that, as part of its commitments under the Public Records Act, it is in the early stages of preparing the records for transfer to The National Archives (although there is currently no timescale for this transfer), where they will be properly catalogued and more readily searchable. However, given the current state of the records, the FCDO estimates that it would exceed the appropriate limit to search all of them in full.
27. Based on the information available to him, the Commissioner accepts that FCDO would need to review all of the Palestine Police service records manually. FCDO has not completed a sampling exercise or similar in order to reach a reasonable estimate of the time required to check through all of the records. However, in order to review all records without exceeding the appropriate limit, FCDO would need to review seven records per minute – which the Commissioner does not consider to be feasible.
28. The Commissioner is therefore satisfied that FCDO was entitled to rely on section 12(2) of FOIA to refuse the request as it relates to Person 1.

### **Section 16 – advice and assistance**

29. Section 16(1) of FOIA provides that a public authority is required to provide advice and assistance to any individual making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section, it will be taken to have complied with its obligations.
30. The Commissioner accepts that due to the way in which the relevant records are held, the request could not be meaningfully refined in order to bring it within the cost limit. As such, the Commissioner is satisfied that there was no breach of section 16(1) of FOIA.

### **Extent of the Palestine Police CID records**

#### **Section 21 – Information accessible to applicant by other means**

31. Section 21(1) of FOIA provides that information which is already reasonably accessible to the applicant is exempt information.

32. In this case FCDO has explained that the information is available on the FCDO Archive Inventory. It provided a link to the Archive Inventory, which can be viewed online or downloaded, and it also provided a copy of the relevant entry on the Archive Inventory.
33. As this information is already reasonably accessible to the applicant and FCDO has directed the complainant to where it can be located, the Commissioner is satisfied that FCDO was correct to rely on section 21(1) of FOIA for this part of the request.

## Right of appeal

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34. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

35. 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.
36. 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 .....**

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**