

Chris Cole
chris@dronewars.net

22 December 2017
Reference: F0003412

Dear Mr Cole

I am writing in respect of your request of 21 September 2017, for the release of information held by the Civil Aviation Authority (CAA). I am sorry for the significant delay in responding to your request.

Your request:

'I am writing to request, under the Freedom of Information Act, copies of documents relating to discussions between the CAA and the Ministry of Defence (MoD) and/or The Royal Air Force (RAF) regarding the Predator B ER unmanned aerial vehicle (UAV) (also known as 'Protector' or 'SkyGuardian').'

Our response:

Your request has been considered in line with the provisions of the Freedom of Information Act 2000 (FOIA).

Please find attached copies of communications that have taken place between the CAA and the Ministry of Defence (MOD) in relation to the Predator B ER unmanned aerial vehicle (UAV) (also known as 'Protector' or 'SkyGuardian').

As you will see, we have redacted some information within the attached communications on the basis that it is exempt from disclosure under FOIA and cannot be released. The reasons are set out below and a copy of the relevant exemptions can be found at the end of this letter.

Our response:

Your request has been considered in line with the provisions of the Freedom of Information Act 2000 (FOIA).

Please find attached copies of communications that have taken place between the CAA and the Ministry of Defence (MOD) in relation to the Predator B ER unmanned aerial vehicle (UAV) (also known as 'Protector' or 'SkyGuardian').

Civil Aviation Authority

Aviation House Gatwick Airport South Gatwick RH6 0YR. www.caa.co.uk

Telephone: 01293 768512. foi.requests@caa.co.uk

As you will see, we have redacted some information within the attached communications on the basis that it is exempt from disclosure under FOIA and cannot be released. The reasons are set out below and a copy of the relevant exemptions can be found at the end of this letter.

Section 43 – Commercial interests

Under Section 43(2), information is exempt if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it). The information contains some commercially sensitive material which, if disclosed, would be likely to prejudice the commercial relationship between the MOD and a third party.

As Section 43 is a qualified exemption, we have also considered whether, in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosure.

The public interest in disclosing the information include the general principle of transparency and open government, the public right of access to information held. Disclosure may also give the public an increased understanding and trust in UK defence operations.

However, there is a strong public interest in allowing organisations to engage with contractors and gain the best outcome in procurement, free from outside pressures. Having considered the factors on both sides the CAA has concluded that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 26 – Defence

Under Section 26(1)(b), information is exempt if its disclosure would, or would be likely to prejudice the capability, effectiveness or security of any relevant forces. The information contains operationally sensitive material which, if disclosed, would prejudice the general capabilities and effectiveness of the MOD's UAV operations. Certain decisions have not yet been finalised and therefore disclosure into the public domain could jeopardise the process of effective decision making, thus affecting present and future capabilities of the MOD's operations.

As Section 26 is a qualified exemption, we have also considered whether, in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosure.

The public interest in favour of disclosure is effectively the same as those set out above. However, there is a need to protect information that could be exploited by potential enemy forces which would have an adverse impact on defence operations.

Having considered the factors on both sides, the CAA has concluded that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 22 – Information intended for future publication

Under Section 22(1)(a), information is exemption where it 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).

The MOD has not formally decided where the Protector UAV will be based, which will be a decision that will be approved by Ministers. The CAA considers that it would not be reasonable or sensible to disclose information about the likely outcome at this stage until the decision has been finalised. The location of the Protector's base will be confirmed by the MOD in due course.

As this is a qualified exemption, we have also considered whether, in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosing the information.

The public interest in favour of disclosure is effectively the same as those set out above. However, it is important to allow effective decision making without external interference or distraction.

Having considered the factors on both sides, the CAA has concluded that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Section 40 – Personal information

We have redacted all personal information in accordance with Section 40(2) of the FOIA as to release the information would be unfair to the individuals concerned and would therefore contravene the first data protection principle that personal data shall be processed fairly and lawfully.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Caroline Chalk
Head of External Information Services
Civil Aviation Authority
Aviation House
Gatwick Airport South
Gatwick
RH6 0YR

caroline.chalk@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the FOIA to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

<https://ico.org.uk/concerns/>

If you wish to request further information from the CAA, please use the form on the CAA website at <http://publicapps.caa.co.uk/modalapplication.aspx?appid=24>.

Yours sincerely

A handwritten signature in black ink that reads "Rihanne Stephen". The signature is written in a cursive style with a large initial 'R'.

Rihanne Stephen
Information Rights Officer

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Freedom of Information Act: Section 43

- (1) Information is exempt information if it constitutes a trade secret.
- (2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
- 3) *The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).*

Freedom of Information Act: Section 26

- (1) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice-
 - (a) the defence of the British Islands or of any colony, or
 - (b) the capability, effectiveness or security of any relevant forces.
- (2) In subsection (1)(b) "relevant forces" means-
 - (a) the armed forces of the Crown, and
 - (b) any forces co-operating with those forces,or any part of any of those forces.
- (3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).

Freedom of Information Act : Section 22

- (1) Information is exempt information 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).
- (2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) which falls within subsection (1).

Freedom of Information Act: Section 40

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if-
 - (a) it constitutes personal data which do not fall within subsection (1), and
 - (b) either the first or the second condition below is satisfied.
- (3) The first condition is-

- (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-
 - (i) any of the data protection principles, or
 - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
 - (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.
- (4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).
- (5) The duty to confirm or deny-
- (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
 - (b) does not arise in relation to other information if or to the extent that either-
 - (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
 - (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).
- (6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.
- (7) In this section-
- "the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;
 - "data subject" has the same meaning as in section 1(1) of that Act;
 - "personal data" has the same meaning as in section 1(1) of that Act.