

From: Mr Paul Daly



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Our Reference:
FOI2025/16802

Iain Overton
Via email: request-1305828-b38e7ea3@whatdotheyknow.com

18 December 2025

Dear Mr Overton,

FREEDOM OF INFORMATION ACT 2000 – INTERNAL REVIEW

1. I am writing in response to your email of 23 August 2025 in which you asked for an internal review of MOD's response to your request for information under the Freedom of Information Act 2000 ('the Act') which is available on the WhatDoTheyKnow (WDTK) website titled '*Flights over Gaza*'.¹ The purpose of the internal review is to consider whether the requirements of the Act have been fulfilled. The scope of the review is defined by Part 5 of the Code of Practice² under section 45 of the Act. I apologise for the delay in providing this review.

Handling

2. In conducting my review of the handling of your request, I have focussed on the following requirements of the Act:

- a. Section 1(1)(a) which, subject to certain exclusions, gives any person making a request for information to a public authority the entitlement to be informed in writing by the public authority whether it holds information of the description specified in the request;
- b. Section 1(1)(b) which, subject to certain exemptions, creates an entitlement to receive the information held by the public authority;
- c. Section 10(1) which states that, subject to certain provisions allowing extensions of time, the public authority must comply with the requirements of section 1(1) promptly, and in any event not later than the twentieth working day following the date of receipt;
- d. Section 16(1) where it is the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, request for information to it;

¹ https://www.whatdotheyknow.com/request/flights_over_gaza

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

- e. Section 17(1) which states that, where it claims that information is exempt, the public authority must, within the time for complying with Section 1(1), give the applicant a notice which states the fact, specifies the exemption(s) in question and states why the exemption applies;
- f. Section 17(3) which states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information; and
- g. Section 17(3)(b) which states that, where the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the public authority must state the reasons for claiming this.

3. Your request for information of 7 July 2025 was received on the same day and asked for the following information which I have numbered for ease:

- 1. *'Can I please ask how many RAF flights over Gaza have been undertaken between 7 October 2023 and 7 July 2025?'*
- 2. *'If you can, a breakdown on an excel spreadsheet would be great.'*

4. Section 10(1) of the Act requires that you receive a response within 20 working days. The substantive response of 18 August 2025 was provided late, for which I apologise. As required under section 1, the substantive response confirmed that information in scope of your request was held. However, all of the information that was held fell within the qualified exemption at section 26(1)(b) (defence) and that it may be exempt from disclosure under either section 23 (security bodies) or section 24 (national security) of the Act. You were provided with the outcome of the public interest test (PIT) for the qualified exemptions. You were correctly informed of your rights to appeal.

Appeal

5. For ease, your request for an internal review of 23 August 2025 has been reproduced at Annex A.

Substance

6. As part of this review, I have looked at your request again from first principles and my findings are outlined below.

7. It is not clear what level of detail you were seeking that would fall in scope of part 2 of your request and perhaps this should have been clarified with you.

8. I can advise that the information that meets the description for both parts of your request is held by MOD but is exempt from disclosure as explained below.

Use of section 23(1) in the alternative section 24(1) (national security)

9. Section 23(1) of the Act is an absolute exemption which states that: "*Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).*" There is no requirement to conduct a public interest test (PIT).

10. Section 24(1) is a qualified exemption which applies to information not covered by section 23(1), if it is necessary for the purpose of safeguarding national security.

11. Sections 23 and 24 allows public authorities to cite these exemptions "in the alternative," meaning they can state that either the information relates to a security body (section 23) or its disclosure would harm national security (section 24) of the Act.

12. The response stated that sections 23(1) and 24(1) were being cited in the alternative as it was not appropriate, in the circumstances of the case, to confirm which of the two

exemptions were actually engaged so as not to undermine national security or reveal the extent of any involvement, or not, of the bodies dealing with security matters.

13. The release of the information in scope of your request where the qualified exemption at section 24(1) may apply would promote accountability and transparency in national security matters. Release would increase public understanding of the current operations relating to your request about flights over Gaza, increase public confidence and trust in overseas operations. It would also provide assurance that the role of the UK Armed Forces is fully considered, carefully managed, proportionate and in accordance with International Humanitarian Law (IHL). It is also recognised that the UK's support to hostage rescue is a matter of significant public interest.

14. The release of information, when also combined with other information already available in the public domain, that provides adversaries with valuable insight into the UK Armed Forces' tactics, techniques, and procedures (TTPs) poses a significant risk to national security. Such information could reveal operational methods, Defence strategies, and the capabilities of the UK Armed Forces, potentially enabling adversaries to exploit vulnerabilities, counteract operations, or undermine the UK's ability to protect its interests abroad. Such a release would place current or future operations at risk.

15. Therefore, the release of information that would prejudice the ability of the UK Armed Forces to protect national security is not in the wider public interest. While MOD is not able to confirm which of these two exemptions is engaged, to the extent that section 24(1) might be engaged, and considering the factors outlined above, the Department finds that the balance of public interest is in favour of withholding the information.

Use of section 26 (defence)

16. Section 26(1)(b) of the Act is a qualified exemption which states that information is exempt if its disclosure would, or would be likely to, prejudice (b) the capability, effectiveness or security of any relevant forces. The factors for disclosure are outlined under section 24(1) above.

17. The release of information regarding TTPs, the number of flights, and specific details about sensitive operations poses a significant threat to operational security. Such disclosures could provide adversaries with critical intelligence, enabling them to deduce the scale, frequency, and logistical aspects of military operations. This could lead to inferences about the nature, purpose, or timing of missions, increasing the risk to British Forces and their Allies. Furthermore, release could undermine the effectiveness and security of current and future operations.

18. Taking these factors into consideration, you were advised that while the UK's support to hostage rescue is a matter of significant public interest, release of information would likely provide our adversaries with a better understanding of sensitive UK military operations, which would in turn prejudice the effectiveness of the UK Armed Forces.

19. It is the MOD position that the public interest lies in withholding the information under section 26(1)(b) in this case.

20. The level of prejudice for section 26(1)(b) is set at the higher level of "would" rather than "would be likely to".

Section 16 (advice and assistance)

21. Section 16(1) of the Act places an obligation on public authorities such as MOD 'to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it'.

22. For your awareness, the Government acknowledged in March 2025, that Defence activity involving Israel undergoes a rigorous Overseas Security and Justice Assistance (OSJA) assessment. This is a process designed to ensure that such activities comply with the UK's human rights obligations and international humanitarian law (IHL).

23. You may be aware of the [Written Ministerial Statement \(WMS\) at \(UIN 56819\), tabled on 3 June 2025](#) where the Minister of the Armed Forces said:

Since December 2023 the Ministry of Defence has conducted unarmed surveillance flights within the airspace over Israel and Gaza, solely for the purpose of locating hostages. I am unable to comment further on detailed intelligence matters.

24. In the Parliamentary debate on 18 March 2025, the Minister for the Armed Forces, stated that:

'the RAF has conducted unarmed surveillance flights over the eastern Mediterranean, including in airspace over Israel and Gaza. I reassure hon. Members, because a number of them raised this point, including the hon. Member for Brighton Pavilion (Siân Berry), that these flights are solely in support of hostage rescue. Only information related to hostage rescue can be passed to the relevant authority for hostage rescue.'

25. We can advise that following the agreement of the Gaza peace plan between Israel and Hamas, and the release of remaining hostages, the MOD ceased surveillance flights over Gaza and the last flight took place on the 10 October 2025.[1]

26. Finally, in relation to the precedents for disclosure cited in your complaint, the MOD assesses each request on a case-by-case basis. The Department has determined that the information in scope of your request cannot be released to protect operational security and to mitigate risks, which could undermine current or future operations.

Conclusion

27. In summary:

- a. Your request was not handled in accordance with section 10 because the response was provided late and under section 17, MOD did not specify the exemptions that applied and why, within 20 working days.
- b. Sections 23(1) (security bodies) and 24(1) (national security) are cited in the alternative as explained in the substantive response and in this internal review.
- c. Taking all of the factors into consideration in this case, the balance of the public interest favours maintaining the exemption at sections 26(1)(b) (defence) under the Act. The level of prejudice is set at the higher level of "would" rather than "would be likely to".
- d. MOD has provided advice and assistance under section 16 of the Act.

If you remain dissatisfied with the review, you may make a complaint to the Information Commissioner by following this link - <https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/>. Further details of the role and powers of the Commissioner can be found on the following website: <https://ico.org.uk>. The address is: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,
Paul Daly

[1] <https://www.gov.uk/government/news/statement-on-uk-military-activity-in-the-eastern-mediterranean>

Internal review request of 23 August 2025

'I am writing to request an internal review of the Ministry of Defence's response to my FOI request (Ref: FOI2025/16802) concerning the number of RAF flights over Gaza between 7 October 2023 and 7 July 2025.

The refusal cited exemptions under Sections 26 (Defence), 23 (Security Bodies) and 24 (National Security). I contend that the balance of public interest has not been correctly applied in this case and that precedent already exists for the release of similar information.

1. Precedent of disclosure

The RAF has previously disclosed details of flights relating to Operation Shader, including numbers of sorties and types of missions. This sets a clear precedent that releasing aggregate figures of flights is not inherently prejudicial to defence capability or national security. Importantly, I did not request operational details such as flight paths, timings, or intelligence outcomes—only the number of flights. To withhold such basic numerical data, when precedent shows it can be safely disclosed, is inconsistent and disproportionate.

2. Human rights concerns

The Israel Defense Forces (IDF), over the same period, stand accused by multiple credible sources—including UN experts and human rights organisations—of grave breaches of international humanitarian law, including alleged war crimes, genocide, and the use of starvation as a weapon of war. The UK Government itself has been called upon to account for its support to the IDF. There is a strong and legitimate public interest in knowing whether UK military assets are operating in such a context and whether they risk contributing to actions widely alleged to constitute international crimes.

3. Public interest test

The MOD's public interest reasoning does not give adequate weight to these concerns. While I recognise the sensitivity of operational matters, releasing only the number of flights cannot reasonably prejudice adversaries or compromise UK operational effectiveness. It would not reveal tactics, capabilities, or operational outcomes. In contrast, withholding such information risks undermining public confidence in the Government's adherence to transparency, accountability, and the UK's obligations under international law.

4. Narrow scope of request

The request is carefully limited in scope: I am not seeking intelligence outputs, operational detail, or any information that could compromise security. Aggregate flight numbers fall into the same category of data as previously released Shader sorties. Releasing this data would not increase risk to UK forces or the public, but it would materially contribute to the public's understanding of UK involvement in a highly sensitive international conflict.

Conclusion

Given the precedent of disclosure, the minimal security risk, and the overwhelming public interest in ensuring UK operations are not complicit in serious breaches of international law, I urge the MOD to reconsider its refusal and release the aggregate number of RAF flights over Gaza during the requested period.'