



Department
for International
Development



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Dear Mr Balanson,

Freedom of Information Request F2014-179 Internal Review

I am replying to your request for an internal review of our response to you in relation to your above-referenced request for information under the Freedom of Information Act 2000.

I have conducted an internal review and am writing now to inform you that I have decided to uphold the original decisions to withhold various parts of the information you requested on the following grounds:

- Section 27 (1) (a), (b), (c) and (d) (international relations)
- Section 40 (2) (personal information)
- Section 41 (1) (information provided in confidence)
- Section 43 (2) (commercial interests)

I have set out in further detail the reasons for my decision.

Re: (a) A complete list of NRC's partners, including all NGOs, law firms, and individual attorneys, concluding work as part of the ICLA/Legal Assistance Project".

Re: (b) The amounts given to each partner, as well as a description of the activities undertaken with the funding.

I can confirm that we do not hold a complete list of the Norwegian Refugee Council's partners. Although you have stated that DFID would be able to obtain that information, I should clarify that the Freedom of Information Act (FOIA) 2000 applies only to recorded information already held by a public authority at the time a request is received. There is no requirement for a public authority to gather information from other parties to provide it to a requester.

The Norwegian Refugee Council (NRC) is provided with an accountable grant, including for work in providing legal support on housing, land and property (HLP) rights. The NRC is responsible for the day to day management of its funding through the grant including making payments to NGO Lawyers or private lawyers working on HLP rights matters. As a result DFID does not require and has not compiled a list of NRC partners.

You may wish to note that the disbursements referred to in the Development Tracker and which you have alluded to in your letter concern payments to the Norwegian Refugee Council itself not to any partner working for or with them. The Development Tracker will be updated to make this clear.

In your email of 7 July you have specifically asked that: *“If a complete list is not available, NGO Monitor requests a list of all partners and funding of which DFID is aware”*. I can confirm that DFID holds some information about NGO partners. The first source of information is Project Completion Review for “Information, Counselling and Legal Assistance for Internally Displaced Persons and Persons/Communities affected by displacement in the Occupied Palestinian Territories”. That information is subject to exemption under section 21 of the FOI Act as it is already accessible to you on the [Development Tracker](#).

Information on partners (but not about funding to them) is also contained within the two reports referenced in part (d) of your original request. I have set out below the reasons for withholding information from within those documents.

Re: (d) A March 2013 evaluation of the program conducted by donors and a 2012 ECHO (EU)-funded “impact study”.

Application of the exemption under s41 (1) of the Act

Both of these documents were provided to DFID by NRC in the expectation that they would not be used or disclosed against their wishes. You have yourself referred in your letter to NRC’s “low visibility policy” and I would suggest that this is one indicator that the NRC would not share material with DFID that, if shared or disclosed, could result in their work becoming significantly more visible.

Furthermore, the material within the documents is not trivial and refers to matters of importance regarding the work of NRC and its partners. I am therefore satisfied that it would constitute an actionable breach to release the documents, or any substantial part of them, including parts which name NRC partners, without the permission of NRC.

Application of the exemption under s40 (2) of the Act

Both of the abovementioned documents contain the names of individuals, and in some parts, the organisations they work for and their roles within those organisations. This constitutes the personal data of those individuals.

Providing the personal data of the individuals referred to in the report to a third party would be a form of data processing. Providing that personal data to NGO Monitor would not satisfy the conditions set out in Schedule 2 of the Data Protection Act 1998. This would not be fair to the individuals concerned and would be in breach of the first principle of the Data Protection Act.

In addition to the section 40 (personal data) exemption I think it would also be appropriate to apply section 38 (health and safety) to this information as disclosing the information could endanger the safety of those named individuals.

Application of the exemption under section 38 (1) of the Act

In the original response, the information regarding any individual NRC partners was withheld using section 40 (personal data) of the FOI Act. My view is that this information should also be withheld under the exemption at section 38 of the Act. Section 38 is a qualified exemption and I have therefore considered the public interest factors in favour of disclosure and withholding.

The factor in favour of disclosure is the general public interest in transparency and accountability of governments regarding the people and organisations they work in partnership with.

The main factor in favour of withholding the information is that individuals identified as being NRC partners or working for NRC partners are working in a very sensitive environment about which various parties have very strong views. Due to the difficult security situation in Israel and the Occupied Palestinian Territories, we feel that the security of the individuals could be seriously compromised by those people opposed to the work that they undertake.

The safety of those individuals is of paramount importance and I have, therefore, concluded that the balance of public interest in this case favours withholding the information.

Application of the exemption under s43 of the Act

You have queried the use of the s43 exemption in relation to the abovementioned documents. Having reviewed the use of this exemption I think the public interest in withholding the information outweighs the public interest in disclosure.

I concur with the consideration of the factors in favour of disclosure in our original response. In addition to the factors already stated in favour of withholding, my view is that the reports provide assessments of NRC's and, by proxy, DFID's position in the legal services market in the regions referred to in the report. Exposing information about those assessments and how they might be considered by NRC during procurement of legal services carries a real risk of prejudice to NRC's and DFID's commercial interests i.e. as NRC's ability to negotiate the most competitive rates could be undermined. This would, in turn, undermine the department's ability to fulfil its role and achieve value for money in the use of public funds.

Application of the exemption under s27 (1) (a), (b), (c) and (d) of the Act

In your letter of 7 July you have made two specific points on this exemption; first, you have suggested that the information does not relate to "poverty reduction" or "international development needs"; secondly, you state that the information does not relate to "governments or international organisations".

Regarding the first point, the business cases for the ICLA and Legal Assistance projects which you can find on the [Development Tracker](#) provide rationales for these projects which refer to the impact on wider themes of poverty reduction and development.

Regarding your second point, it should be noted that the NRC's work on the two projects previously referred to are also funded by international organisations such as the European Commission and the United Nations, as well as the government of France.

In order for the UK government to pursue its international development objectives abroad there must be good working relationships with international organisations based on confidence and trust. Disclosing sensitive information of the kind held in the relevant reports would be likely to damage that relationship of trust with the other international organisations involved, harm the ability of DFID to work with and influence those organisations and other donors in eradicating poverty and promoting development.

I am therefore satisfied that the public interest in withholding the information outweighs the public interest in disclosure and it is therefore appropriate to withhold information under section 27 of the FOI Act.

Finally, you have queried our response in respect of your last question:

(e) Names of the relevant officials at NRC to obtain further information such as case lists and funding disbursements.

In our original response we advised that we were withholding that information under s40 (personal data) of the FOI Act. I will reiterate that the names of individuals constitute the personal data of those individuals.

Providing the personal data of the individuals to a third party would be a form of data processing. Providing that personal data to NGO Monitor would not satisfy the conditions set out in Schedule 2 of the Data Protection Act 1998. This would not be fair to the individuals concerned and would be in breach of the first principle of the Data Protection Act.

In addition to the section 40 (personal data) exemption I think it would also be appropriate to apply section 38 (health and safety) to this information as disclosing the information could endanger the safety of those named individuals.

Section 38 is a qualified exemption and I have therefore considered the public interest factors in favour of disclosure and withholding.

The factor in favour of disclosure is the general public interest in transparency and accountability of governments. However, in this instance it is unclear how this public interest would be served by disclosing the names of particular individuals when there are publicly available contact details for the relevant organisation itself.

The main factor in favour of withholding the information is that the relevant individuals are working in a very sensitive environment about which various parties have very strong views. Due to the difficult security situation in Israel and the Occupied Palestinian Territories, we feel that the security of the individuals could be seriously compromised by those people opposed to the work that they undertake.

The safety of those individuals is of paramount importance and I have, therefore, concluded that the balance of public interest in this case favours withholding the information.

I hope that this response reassures you that all reasonable steps were taken by my team in considering and responding to your request. If, however, you remain unhappy with the outcome of this internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely,

Peter Dickin
Head of Information Rights