



HOUSE OF COMMONS

LONDON SW1A 0AA

Rt Hon Des Browne MP
Secretary of State for Defence
Ministry of Defence
Floor 5, Main Building
Whitehall
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21 April 2008

Des Browne

Re: Freedom of Information requests

Thank you for your letter of 19 March 2008. I am surprised that in responding to my Freedom of Information Act requests for information you did not cite the Act, nor provide information regarding internal review mechanisms. Is this a policy of the Ministry of Defence or was there an oversight in this case? I am also surprised that my request does not appear to have been fully considered.

In case of an oversight, I would like to repeat the requests for information that I made under the Freedom of Information Act in my letter of 6 February 2008. If there was not an oversight in this case, I would like to request an internal review of the decision not to disclose the information I requested. As you know, there is a duty on all public authorities to provide such an internal review procedure. I set out again for your information a list of the information I requested in my letter of 6 February 2008:

1. A list of all individuals who have been detained by UK forces in Iraq or Afghanistan. This list should provide all known names of those detained, and any other information that may help in their identification, including dates of birth where known.
2. All information relating to the 'understanding' between UK, Iraqi, Afghan, and US authorities referred to in your letter of 31 January 2008, and set out in my letter of 6 February 2008.

On the basis of your letter of 19 March 2008, you appear to have rejected my request for a list of all individuals who have been detained by UK forces in Iraq or Afghanistan on the grounds that to disclose such information would be in breach of the Data Protection Act. Even if the information I have requested relating to those detained in Iraq and Afghanistan amounted to personal data subject to the provisions of the Data Protection Act, it would appear to be exempt from the non-disclosure provisions of the Data Protection Act in this particular case. Disclosure is necessary for the purposes set out under s. 35 (2) of the Data Protection Act. Furthermore, it seems that disclosure of the information would be permitted and necessary to protect the vital interests of the individuals who are the subjects of the personal data (Schedule 2 paragraph 4 and Schedule 3 paragraph 3 (a) of the Data Protection Act).

You appear to have rejected my request for all information relating to the 'understanding' between UK and Iraqi authorities – which you imply takes the form of a single written agreement – because “they have asked us not to put this document in the public domain”. This is not a valid reason for non-disclosure of the understanding, or related information, under the Freedom of Information Act. It may be that this is intended to refer to s. 27 of the Freedom of Information Act, regarding international relations. As you will be aware, this exemption is qualified and you make no reference to having considered the public interest in disclosure. There is clearly a significant public interest in disclosure in this particular case.

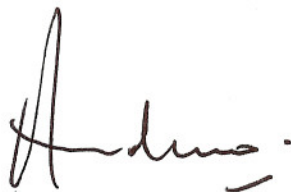
You appear to have accepted, at least in part, my request for all information relating to the 'understanding' between UK and Afghan authorities, by attaching a copy of the written agreement with the Afghanistan government on this issue. You imply, but do not state, that this information is contained exclusively in this written agreement. Is all information relating to the 'understanding' between UK and Afghan authorities contained in this agreement?

You appear not to have considered my request for all information relating to the 'understanding' between UK and US authorities, simply stating that “this understanding has been documented in various ways at different times”, and providing a number of examples without disclosing the information contained within these documents, nor outlining if or why it was being withheld. Having confirmed the existence of this information, I would be grateful if you would now disclose it.

I would greatly appreciate clarification as regards your letter of 19 March 2008, and for my Freedom of Information requests to be dealt with in the appropriate manner. If your contention is that you have considered my requests properly under your obligations under the Freedom of Information Act, I would be grateful if you would confirm that there will be an internal review of your decision not to disclose the information. I am concerned that to provide your initial response you took longer than the requisite 20 working day deadline. I trust therefore that the review will be undertaken promptly.

I will write to you separately regarding your comments on the effectiveness of the current arrangements.

I am placing a copy of this letter in the public domain. I am also copying it to the Information Commissioner.

A handwritten signature in black ink, appearing to read 'Y. Turner,' with a comma at the end.A handwritten signature in black ink, appearing to read 'Andrew Tyrie'.

ANDREW TYRIE

Chairman, All-Party Parliamentary Group on Extraordinary Rendition