

IN THE MATTER OF AN APPEAL TO THE FIRST TIER TRIBUNAL

Appeal Nos:
EA/2013/0042
EA/2103/0043

2nd Witness Statement of Squadron Leader [REDACTED]

BETWEEN:-

CHRIS COLE

Appellant

-v-

THE INFORMATION COMMISSIONER

First Respondent

-and-

MINISTRY OF DEFENCE

Second Respondent

2ND WITNESS STATEMENT OF Squadron Leader [REDACTED]

I, Squadron Leader [REDACTED], presently working as a Requirements Manager in the Defence Equipment and Support's Unmanned Air Systems (UAS) Team will say as follows:-

I am a serving officer in the Royal Air Force (RAF). On 2 December 2012 I began my current role as a requirements manager for the Reaper, Remotely Piloted Aircraft System (RPAS). This post is held by the Defence Equipment & Support Organisation within the Ministry of Defence. Within this post I am tasked with the generation and management of the capability requirements for Reaper and the future delivery of an armed, Intelligence, Surveillance and Reconnaissance (ISR) air asset.

I began my career within the RAF as a combat ready pilot on the Tornado GR1/4; as such I have served on numerous operational deployments in the Middle East. In 2007 I

became a fully trained combat ready Pilot on the MQ-9 Reaper serving with 39 Squadron, based at Creech Air Force Base, Nevada, USA. From October 2007 to September 2009 I flew daily combat missions in support of the International Security Assistance Force (ISAF) operation in Afghanistan. During this period I qualified as a Reaper instructor and trained the next generation of UK RPAS pilots, I also certified as an Air Checking Officer responsible for assessing the competency of all combat ready crews on the squadron and became the Deputy Squadron Commander responsible for the supervision of all aspects of the combat operations of No 39 Sqn. I have approximately 1000hrs of Reaper experience supporting UK and Coalition activities in Afghanistan. From October 2009 until February 2010 I was the UK's Air Operation Coordinator at the Al Udeid Combined Air Operations Centre (CAOC). I was responsible for the day to day tasking and reporting of all UK Fixed Wing Assets in the Middle East including UK Reaper. From March 2010 until December 2012 I was the RPAS subject matter expert within the Head Quarters of the RAF's No 1 Group supporting and reporting on the Reaper capability from the perspective of the RAF. I was also tasked to manage a number of tasks associated with the delivery of the UK's Additional Reaper Capability. Given my expertise as chronicled above, I am in a position to provide information to assist the Tribunal in considering the matters raised in the Appellant's appeal.

1. I am making this statement in response to the Mr Cole's Appeal of the decisions of the Information Commissioner (FS5046185 and FS50462269) now under appeal reference EA/2013/0042 and EA/2013/0043 respectively).
2. The facts set out in this statement are true where they are within my own knowledge and are otherwise true to the best of my knowledge, information and belief.
3. The purpose of this statement is to provide the assurance of a qualified person that the information at issue in these appeals is subject to section 26 (Defence) of the Freedom of Information Act and that in respect of appeal EA/2013/0043, also by virtue of section 27 (International Relations) of the Act because its disclosure would give rise to the prejudice which the use of these exemptions is aimed at avoiding.

General background to the use of UASs

4. The MQ-9 Reaper is a Medium Altitude Long Endurance Remotely Piloted Aircraft System. The UK's Reaper aircraft are flown over Afghanistan in support of the

International Security Assistance Force (ISAF) Mission. However, the aircraft is controlled at all times from either the USA or the UK by a qualified RAF pilot assisted by a trained sensor operator using ground and satellite based datalinks. The Reapers primary mission is to act as an ISR asset, employing sensors to provide real-time data to military commanders and intelligence specialists. The aircrafts secondary mission is to provide armed support to forces on the ground and, if required, engage emerging enemy targets in accordance with extant rules and directives. The aircraft's primary sensor is a full motion video camera that is effective at collecting detailed video imagery at significant distances from what is being looked at. The heights at which we normally fly Reaper make it undetectable by enemy forces in Afghanistan, allowing the platform to collect a variety of near real-time intelligence information regarding their activities.

5. The Reaper can use the GBU-12 (a 500lb laser guided bomb) and the Hellfire air to ground missile (a 100lb laser guided missile). Both weapon types have been cleared by the UK for combat use. All weapons can only be released by the flying pilot and guided to their target by the sensor operator. The aircraft has no automated means of releasing and guiding a weapon.
6. Reaper was originally operated in direct support of UK ground forces in Helmand Province. In March 2008 the UK Reaper force was then declared to the Combined Forces Air Component Commander (CFACC) based in the Al Udiad Combined Air Operations Centre (CAOC) to support all Afghanistan based Coalition Forces supporting ISAF. The UK Reaper is predominately tasked in support of the ISAF's daily operational priorities list within Afghanistan.
7. The normal day to day tasking of the UK Reaper can significantly vary. In some instances it will be tasked to collect data that helps intelligence specialists build up an understanding of the pattern of life for a specific area of interest such as potential enemy forces location, sometimes over a period of weeks. Often after a period of mapping patterns of life, UK Reaper provides real-time overwatch of any ground operations that result from such intelligence, providing direct support and information to the troops on the ground. The aircraft can also be tasked to support activities such as coalition personnel and equipment convoys, Counter - Improvised Explosive Device (C-IED) searches, or even provide an over watch for the search or recovery of missing or wounded soldiers.

8. Tasked in Afghanistan as a predominantly intelligence gathering aircraft, the situation on the ground has to change for the aircraft to be required to release a weapon. All weapon releases are authorised in accordance with UK Rules of Engagement (ROE), UK Op Herrick Targeting Directive and are always undertaken in conjunction with the necessary approvals process. This approvals process means that depending on the situation, a weapons release may be approved by a Forward Air Controller, the Ground Forces Commander or, if the situation demands, it can be authorised at a higher level by the CFACC himself. UK representatives are embedded within this process; at the highest level in the CAOC and ultimately the aircraft Pilot. At all times these personnel are given the opportunity to stop a weapon release if they do not believe that it is in line with UK rules and directives. No matter what the approval process it is always the aircraft crew who ensure that the authorised weapon release is conducted safely and within the rules.

9. Example scenarios where a commander on the ground may authorise a Reaper Crew to release a weapon are:
 - a. There is true belief that there is an imminent threat to life e.g. Friendly Forces are in contact with enemy forces.
 - b. Real evidence of hostile intent to Coalition Forces e.g enemy forces with weapons moving to firing points in close proximity to friendly forces.
 - c. Witnessing of a hostile act such as the active laying of an IED.

10. From my experience during all RPAS weapon events the benefit of an RPAS having a groundstation is that the crew have easy access to video, mapping, archived imagery and other intelligence including real-time access to intelligence staff, squadron supervisors, as well as direct communication to the CAOC and Theatre personnel such as the Legal Advisors and other friendly forces. To that end RPAS crews often have more situational awareness of the ground situation than a Fast Jet (FJ) aircraft overhead of a potential target.

11. The information at issue in this appeal is the answer to Mr Cole`s request of 28 May 2012:

“I would like to request under the FOI Act information about the release of weapons from British Reaper UAVs in Afghanistan. Can you tell me, for each year since 2008. how many weapons were released from British Reaper UAVs under daily tasking orders and how many were released under dynamic targeting procedures?”

12. Details of the reasons why disclosure of this information would be likely to prejudice the capability, effectiveness or security of the UK's and coalition forces are set out in my closed statement. I can advise that our intelligence reporting consistently demonstrates the Taliban's ability to learn and adapt from information they receive on the activity of Coalition Forces and that it is this type of advantage that would prejudice the factors relevant to the exemption.

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13. The information at issue in this appeal is the answer to Mr Cole's request of 5 Jan 2012:

"On 5 January 2011 the Royal Air Force announced that the 200th weapon had been launched from a British Reaper unmanned aircraft in Afghanistan. Under the Freedom of Information Act I would like to request the date and province within Afghanistan, of each weapon launch."

14. The information held in scope of this question shows the date and the location of each weapon launch [Closed bundle Tab 3]. The reasons why disclosure of this information would be likely to prejudice the capability, effectiveness or security of the UK's and coalition forces are set out in my closed statement:

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15. Disclosure of the dates and locations of weapon launches would also prejudice our relationship with other allied nations involved in operations in Afghanistan. The US authorities have been asked for their views on disclosure of this information and have provided an interim response that the UK MOD should not release any information on RPAS operations in Afghanistan that result in weapon releases until they have provided a definitive response. To release such information without the specific endorsement of the US authorities would prejudice relations between the UK and the US which would have a detrimental impact on joint operational activities.

The contents of this witness statement are true to the best of my knowledge and belief.

Signed:

Dated: