

IN THE FIRST TIER TRIBUNAL GENERAL REGULATORY CHAMBER (INFORMATION RIGHTS)

AND IN THE MATTER OF AN APPEAL UNDER SECTION 57 OF THE FREEDOM OF INFORMATION ACT 2000

BETWEEN:-

CHRIS COLE

Appellant

-and-

THE INFORMATION COMMISSIONER

First Respondent

-and-

THE MINISTRY OF DEFENCE

Second Respondent

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WITNESS STATEMENT OF GROUP CAPTAIN MARK FLEWIN  
ON BEHALF OF THE MINISTRY OF DEFENCE

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I, **GROUP CAPTAIN MARK FLEWIN**, presently working within the Permanent Joint Headquarters will say as follows:

1. I am a serving officer in the Royal Air Force (RAF). In August 2016 I began my current role, within the Permanent Joint Headquarters supporting the delivery of lethal and non-lethal effect in support of UK deployed operations. Within my post I am responsible for integrating and managing Information Operations, Cyber, Electro-magnetic and kinetic effect, to deliver a Full Spectrum Targeting operational hub in support of all UK deployed Operations, where necessary integrated within the Coalition construct.
2. I began my career within the RAF in 1998, and following 3 years of intense flying training, qualified as a combat ready pilot on a single seat Fast-Jet Front-Line aircraft, the Jaguar; as such I have served on a multitude of deployments across the Middle East, including the conduct of many operational sorties over Northern Iraq to enforce the Northern No-Fly Zone. As a Qualified Weapons Instructor I instructed on the Jaguar Operational Conversion Unit, training the next generation of Fast Jet (FJ) pilots in war-fighting tactics and weapon delivery techniques, while also assessing their competency and readiness for Front-Line Combat Ready Operations. Following 1000 hours of Fast-Jet experience on the Jaguar over a period

[REDACTED]

of 5 years, I transitioned to the Typhoon, where I was immersed in the growth of the first Typhoon Front-Line Squadron, and the declaration of Typhoon as a UK Air Defence, and subsequently Multi-Role asset, where the aircraft was able to perform both Air-Air and Air-Ground missions. Deployed to the Combined Air Operations Centre in January 2008, I was responsible for the day-to-day tasking and long term planning for all UK Air fixed wing elements across two Theatres – Iraq and Afghanistan – which included the successful integration of the UK Reaper Remotely Piloted Air System (RPAS) within Coalition operations. Following a brief period within the manning directorate managing the RAF Fast-Jet pilot cadre across a number of fleets I was selected to command 1(Fighter) Squadron and led the formal re-establishment of the Squadron as a Front-Line combat ready unit. On Typhoon I have amassed over 1200 Front-Line flying hours, flying numerous operational sorties both overseas and in support of the UK and Falkland Islands Quick Reaction Alert mission, where I led a team of 200 people and managed a combat ready Squadron of 12 Typhoon Front-Line aircraft.

3. Before arriving at the Permanent Joint Headquarters I served in the single Service policy area of the Ministry of Defence (MOD) throughout the period of the 2015 Strategic Defence and Security Review. During this time I was deployed overseas to establish 903 Expeditionary Air Wing in support of Operation SHADER where I commanded 5 disparate aircraft types and 450 people, including combat air assets, in support of the US-led counter-Daesh Coalition effort, Operation Inherent Resolve (OIR). Given my expertise as a Qualified Weapons Instructor within the air environment and a kinetic practitioner within a multitude of ground appointments and having accrued some 2500 hours of FJ flying over 3 FJ aircraft types, I am well placed to provide information to assist the Tribunal in considering matters raised in the Appellant's case.
4. I make this witness statement on an OPEN basis for filing with the Tribunal, service on the Appellant, Mr Chris Cole, and the Information Commissioner and inclusion in the final, consolidated version of the **OPEN** Hearing Bundle ("OHB"). I am duly authorised to make this statement on behalf of MOD and in opposition to the appeal under the Freedom of Information Act 2000 ("FOIA"), s.57 brought by the Appellant against the Commissioner's Decision Notice dated 8 November 2016 (Ref. FS50634580).
5. The contents of this witness statement are true to the best of my knowledge, information and belief. Where appropriate, I indicate which statements are made from my own knowledge and which are matters of information or belief.

[REDACTED]

**General Background to the use of Remotely Piloted Air Systems (RPAS)**

6. The MQ-9 Reaper is a medium altitude long endurance RPAS. The UK's Reaper aircraft were introduced during Operation HERRICK – the UK's contribution to the Afghanistan Campaign in support of the International Security Assistance Force (ISAF) mission. The platform has since transitioned to support Operation SHADER – the UK's contribution to OIR – where it provides support in both Iraq and Syria. While the aircraft continues to operate in the Middle East, it is controlled at all times from either the US or the UK by a qualified RAF pilot, assisted by a trained sensor operator using ground and satellite based data-links. The Reaper's primary mission is to act as an Intelligence Surveillance and Reconnaissance (ISR) asset, employing a multitude of sensors to provide real-time data to military commanders and intelligence specialists. The aircraft's secondary mission is to provide armed support to Forces on the ground and, if required, engage emerging enemy targets in accordance with extant rules of engagement and targeting directives. The aircraft's primary sensor is a full motion video camera that is effective at collecting detailed imagery at significant stand-off ranges. The heights at which the Reaper normally operates make it relatively undetectable by enemy Forces across the Joint Area of Operations (JOA), allowing the platform to collect a variety of real-time intelligence information regarding their activities.
7. Reaper Air to Surface munitions include the GBU-12 – a 500lb Laser Guided Bomb (LGB); and the Hellfire air to surface missile – a 100lb low collateral Laser Guided Missile (LGM). Both weapons types have been cleared by the UK for combat use and all weapons can only be released by the qualified pilot in control of the aircraft, guided to their designated target by the sensor operator; the aircraft has no automated means of releasing and guiding a weapon. In March 2008 the UK Reaper Force was declared to the Combined Forces Air Component Commander (CFACC) based in the Al Udeid Combined Air Operations Centre (CAOC) in Qatar to be integrated with and support Forces under Coalition operational command.

**Information at Issue in the Appeal**

8. The information at issue in this appeal is the answer to Mr Cole's request, originally of 1 March 2016, submitted under the Freedom of Information Act, and concerned with 2 main areas.
  - a) How many RAF Reaper UAVs are engaged in operations against ISIL/Daesh in Iraq and Syria at today's date (1 March 2016)?

[REDACTED]

b) At which bases are the UK's Reaper fleet currently deployed to at today's date (1 March 2016)? If you do not wish to give the exact location for security reasons, please can you detail their location by country?

9. This request was refused by the MoD on 31 March 2016 under sections 26 and 27 FOIA. That decision was upheld on internal review and by the Information Commissioner on 8 November 2016. As the Information Commissioner upheld the exemption under section 26 she did not go on to consider the exemption under section 27.
10. Both exemptions are the subject of this appeal.

Information at Issue in the Appeal – Question A

11. The Secretary of State for Defence has already expressed that *"I need to make it absolutely clear that any military action that we may take in respect of imminent threats to the United Kingdom is not, as you have probably discovered, particular to any type of weapon or type of aircraft. It might involve the use of manned aircraft, unmanned aircraft, a missile from a ship or whatever. There is nothing special about the use of unmanned aircraft in this respect."*<sup>1</sup> Militarily, we do not discuss numbers of UK or Coalition aircraft employed, on specific days, or in support of specific operations, as to do so would breach operational security guidelines. This would unnecessarily expose UK and Coalition capabilities, and potentially inadvertently release sensitive information which could be exploited by our enemies to their benefit.

12. [REDACTED]

<sup>1</sup> Houses of Parliament – Joint Committee on Human Rights. Oral Evidence: The UK Government's Policy on the use of Drones for targeted killing, HC574, Wednesday 16 December 2015.

[REDACTED]

[REDACTED]

[REDACTED]

13. Daesh seized Mosul in October 2014, and its recapture has been a Coalition priority since the commencement of the counter-Daesh campaign. Decisive activity to seize the city commenced in October 2016 after a lengthy period of shaping operations, and is now nearing a culmination. As the Coalition also starts to close in on Raqqah – the *de facto* capital of the self-styled ‘Caliphate’ – Daesh’s tactics are becoming ever more desperate, where they will exploit any information regarding Coalition capabilities to their advantage. This will only become more prevalent as we close on the kernel of Daesh, where tactics and information exploitation are likely to become more important to the enemy, and held ground will be more ferociously contested by Daesh’s most fanatical and committed fighters. [REDACTED]

[REDACTED]

14. [REDACTED]

[REDACTED] Release of this figure would disclose information on the capability and capacity of Coalition forces to support extensive counter-Daesh operations in both Iraq and Syria. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Hostile or non-aligned foreign intelligence agencies could also exploit the information to analyse the UK's military capability and readiness for dealing with contingencies outwith the Iraq and Syria areas of operation – so the danger of disclosing this detail is not limited to the current operational environment alone.

15. [REDACTED]

16. Where possible, information on RPAS operations is already published proactively by the MOD on its websites – specifically in the form of strike statements outlining operational activity undertaken by UK air assets, which is released through the MOD's open source website; this includes information on both manned and unmanned platforms. Each of these releases is carefully assessed to ensure that operational security can be maintained, whilst meeting the aim of informing public debate and upholding the Secretary of State's commitment to transparency. [REDACTED]

[REDACTED]

[REDACTED] MOD maintains its commitment to transparency by routinely publishing details of air strikes for Op SHADER online in addition to details of weapons usage and Enemy casualties when requested through channels such as the Freedom of Information Act or Parliamentary Questions. However, a great deal of work and consideration is

[REDACTED]

[REDACTED]

undertaken to ensure that the level of detail released does not impact upon the operational capability of the UK Armed Forces or provide tactical advantage to our adversaries.

Information at Issue in the Appeal – Question B

17. The UK is a critical contributing nation to the US counter-Daesh Operation Inherent Resolve (OIR). [REDACTED]

[REDACTED]

18. The release of information about specific operational basing in the region could result in the withdrawal or limiting of the support currently provided to UK Armed Forces. This could seriously impair the UK's ability to conduct operations in this region and to support our coalition partners in the Gulf, which could affect their willingness to support us in future operations in this and other regions. [REDACTED]

[REDACTED]

19. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20.

[REDACTED]

21.

UK media have previously been allowed controlled access to a base from which Reaper is flown. However, they have operated within specific MOD parameters on operational security and have not released detail which could be exploited – specifically, the exact location of the base. MOD direction on media is set out in the 'Green Book', which details the MOD's working arrangements with the media across the full spectrum of conflict and MOD deployment. It covers practical arrangement for enabling correspondents to report on operations and addresses the policy and principles that facilitate and/or limit the activities of journalists during operations. One of these is the arrangements for covering operational security. A link to the Green book can be found on the Government's gov.uk website (<https://www.gov.uk/government/publications/mod-working-arrangements-with-media-organisations-forms>), and a direct link to the document itself can be found at <https://www.gov.uk/government/publications/the-green-book>). The section headed 'Control of Information' contains the relevant detail on reporting restrictions, starting from paragraph 43.

22.

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

23.

[Redacted]

Statement of Truth

I believe that the facts stated in this witness statement are true:

Signed .....

Group Captain Mark Flewin

Dated .....

[Redacted]