

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 May 2016

Public Authority: Foreign and Commonwealth Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant has requested information from the Foreign and Commonwealth Office (FCO) on the administration processes of payments to civil servants in the Palestinian Authority. The FCO confirmed that it holds information relevant to the request. It repeatedly advised the complainant that it required further time to consider the public interest test. To date, the FCO has failed to provide the complainant with a substantive response. By failing to do so, the Commissioner has concluded that the FCO has breached section 17(3) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a substantive response to his information request. If the FCO decides to withhold any information then the complainant should be provided with a refusal notice giving the full explanation as to why the information will not be disclosed, including details of any public interest test consideration.
3. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 6 November 2015, the complainant wrote to the FCO and requested information in the following terms:

"a) Who or what organisation "independently monitors" the process of payments to the PA [Palestinian Authority]?"

b) Details of the "robust accounting procedures" in place to ensure that UK tax money is spent merely on PA civil servant wages;

c) Details, suitably redacted, of the World Bank Trust Fund used to provide the support tp[sic] the PA civil servants. Is this trust fund based in the UK?"

5. Having received no response to his letter, the complainant contacted the FCO again on 16 December 2015.
6. The FCO acknowledged receipt of the request on 23 December 2015 stating that it had received the request that day.
7. On 25 January 2016, the FCO contacted the complainant advising him that it had yet to reach a decision on the balance of the public interest test with respect to the exemption at section 27 – international relations.
8. The FCO subsequently sent three further, almost identical, letters to the complainant in consecutive months. To date no substantive response has been received.

Scope of the case

9. The complainant contacted the Commissioner on 13 April 2016 to complain about the way his request for information had been handled. He explained that since making his request, he had received numerous letters referencing the public interest test and the requirement for further time.

Reasons for decision

10. Section 1(1) of FOIA provides that any person making a request for information to a public authority is entitled:

"(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

11. Section 10(1) of FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
12. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by up to a further 20 working days, which would allow a public authority 40 working days in total. Any extension beyond 40 working days would require there to be exceptional circumstances, fully justified by the public authority.
13. In the circumstances of this case, although the FCO has repeatedly informed the complainant of the delay while the public interest is considered, the total time taken has well exceeded 40 working days; over 90 working days have now elapsed since the FCO acknowledged receipt of the request on 23 December 2015. The Commissioner does not consider this to be a reasonable timescale and therefore he has concluded that the FCO has not complied with section 17(3).

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
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SK9 5AF