

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 June 2017

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1 5AF

Decision (including any steps ordered)

1. The complainant has requested information relating to non-British migrants moved by HM Government from French territory in and around the port of Calais into the United Kingdom in October 2016.
2. The Home Office failed to respond to this request for information and the Commissioner's decision is that in doing so the Home Office breached sections 1(1) and 10(1) of the FOIA.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
4. The Home Office 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 24 October 2016, the complainant wrote to the Home Office and requested information in the following terms:

"Dear Sir,

In relation to non-British migrants moved by HM government from French territory in and around the port of Calais into the United Kingdom in October 2016 please supply the following;

- 1. Copies of written instructions, directions, policy advice and correspondence in relation to the eligibility of those migrants transferred to the UK given sent or transmitted by the Home Office to the government agencies, personnel and representatives making the selections in the Calais area*
 - 2. In particular, details of the steps taken to prevent fit male migrants of military age (over 18) being transferred*
 - 3. Copies of the age-verification procedure applied by Home Office officials, or agencies, bodies and departments acting as servants or agents of the Home Office in this matter"*
6. The Home Office acknowledged the request on the 24 October 2016. It said that it would aim to respond by 21 November 2016.
7. At the date of this decision notice, the Home Office had yet to respond substantively to the request.

Scope of the case

8. The complainant contacted the Commissioner on 20 February 2017 to complain about the way his request for information had been handled.

Reasons for decision

9. The Commissioner wrote to the Home Office on 31 March 2017 and asked it to respond to the complainant's request within 10 working days. She wrote to it again on 28 April 2017 to ask it to confirm whether this had been done. Despite this, neither the Commissioner nor the complainant received any response from the Home Office.

10. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"no later than the twentieth working day following the date of receipt"*.
12. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days.

Other matters

13. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office which are causing delays.

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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF