

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 June 2017

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

#### Decision (including any steps ordered)

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1. The complainant has requested information about people entering the UK illegally.
2. The Home Office failed to respond to this request for information and the Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
  - The Home Office must issue a response to this request in accordance with its obligations under FOIA.
4. The Home Office must take this step 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

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5. On 3 July 2016, the complainant wrote to the Home Office and requested information in the following terms:  
  
*“1) How many people have been caught in the UK having entered illegally (whether migrants or refugees)?  
2) How many of those have been caught in Hampshire specifically?  
3) How many of those have been caught in Sussex specifically?  
4) How many of those have been caught in Oxfordshire specifically?  
5) How many of those have been caught in Kent specifically?  
5) What is the youngest age of a person caught having entered the UK illegally in Sussex or Hampshire - and where were they found?  
6) What is the oldest age of a person caught having entered the UK illegally in Sussex or Hampshire - and where were they found?  
7) What are the 3 most common nationalities of those who have been caught? (NB please disregard this question if it will take the cost of fulfilling the FOI to beyond the maximum.”*
6. The Home Office sought clarification of the request for information on 19 July 2016. They asked the complainant to provide postcodes for the data requested as they said this would give greater accuracy and quality.
7. On 25 July 2016 the complainant provided a full list of postcodes that it wanted to be included in the response to the request for information.
8. The Home Office contacted the complainant again on the 23 August 2016 to say it needed to more time to consider the public interest test and that it would aim to give a full response by the 19 September 2016.
9. At the date of this decision notice, the Home Office had yet to respond substantively to the request

## Scope of the case

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10. The complainant contacted the Commissioner 24 April 2017 to complain about the way his request for information had been handled.
11. The Commissioner has considered whether the Home Office dealt with this request in accordance with its obligations under section 10(1) of the FOIA.

## Reasons for decision

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12. The Commissioner wrote to the Home Office on 2 May 2017 and asked it to respond to the complainant's request within 10 working days. Despite this, neither the Commissioner nor the complainant received any response from the Home Office.
13. Section 10(1) of the FOIA states that:

*"Subject to subsections (2) and (3), 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."*
14. The clarified request was made on 25 July 2016 and a response is yet to be provided. The Commissioner therefore finds that the Home Office breached section 10(1) in failing to respond within a reasonable timeframe.

## Other matters

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15. 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 action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

## Right of appeal

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16. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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**