

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** **7 September 2018**

**Public Authority:** **Cabinet Office**

**Address:** **70 Whitehall  
London  
SW1A 2AS**

#### **Decision (including any steps ordered)**

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1. The complainant requested information about the performance of MyCSP.
2. The Commissioner's decision is that the Cabinet Office failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request outlined in this decision notice.
4. The Cabinet 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

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5. On 11 April 2018, the complainant wrote to the Cabinet Office as part of a broader complaint she wished to make about her pension. As part of that letter of complaint, she also requested information in the following terms:
  - a) *"how many reported instances of administrative errors leading to overpaid pensioners since MyCSP took over from Capita (18 September 2014) to date?"*
  - b) *"the average £value of the above overpayments."*
  - c) *"how many overpayments of Widow's Contributions Refunds in the above period? (If there are separate statistics)"*
  - d) *"other than abiding by and applying the Managing Public Money guidelines, do MyCSP have contractual liability in respect of monies lost from the Scheme due to their administrative errors?"*
  - e) *"have MyCSP been audited since the Investigation into members' experience of civil service pension administration was published by NAO in February 2016. If so, are the audit reports available for public viewing?"*
6. The Cabinet Office acknowledged the complaint letter on 17 April 2018 but had failed to provide a substantive response to the information request outlined above by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 18 July 2018 to complain about the failure, by the Cabinet Office, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Cabinet Office on 31 July 2018 to highlight the outstanding response. She requested that the Cabinet Office respond to the request within 10 working days.
9. The Complainant contacted the Commissioner on 23 August 2018 to note that no response had been forthcoming to the request.
10. The scope of this notice is to consider whether the Cabinet Office has complied with Section 10 of the FOIA.

## Reasons for decision

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11. Section 1(1) of the FOIA states 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.*

12. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

14. After receiving the Commissioner's letter of 31 July 2018, the Cabinet Office, in a telephone call with the Commissioner's Office, argued that the request was not valid and had not been received by the Cabinet Office. Whilst the Cabinet Office may not have recognised the request as such, the Commissioner's view is that it clearly was a valid request and she has seen evidence that it was received by the Cabinet Office – and the Cabinet Office was therefore under a duty to respond to it.

15. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Cabinet Office has breached Section 10 of the FOIA.

## Other matters

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17. As mentioned above, in a conversation with the Commissioner's Office the Cabinet Office tried to claim that no valid request had been received. Its basis for doing so was that the request had been made as part of a broader complaint and had not been sent to the Cabinet Office's dedicated FOI email address.
18. Whilst the Commissioner would always encourage requestors to contact the information management team (or equivalent) at the public authority in question in order to have the request dealt with expeditiously, there is no requirement within the FOIA to do so.
19. Equally, the FOIA does not require a requestor to separate out their request from a broader complaint for it to be valid – although, again, the Commissioner would encourage such an approach. The requirements of Section 8 of the FOIA are only that the requestor must make the request in writing; provide their name and an address for correspondence and describe the information that they are seeking.
20. The request described above fulfilled the Section 8 criteria and it was made to an email address that carried the Cabinet Office's email domain name. It was, therefore, a valid request.
21. The Commissioner would draw the Cabinet Office's attention to her published guidance on identifying information requests.<sup>1</sup> It is important, particularly in an organisation as large and as disparate as the Cabinet Office, that all staff are aware of their responsibilities for recognising information requests and of the organisation's policy for logging such requests, to ensure that they are processed (and therefore responded to) promptly and within the statutory time limit.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

## Right of appeal

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22. 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)

23. 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.
24. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**