

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 June 2023

Public Authority: Foreign, Commonwealth and Development Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information from Foreign, Commonwealth and Development Office ("FCDO") about documents that refer to Kosovo and Serbia. By the date of this notice FCDO had not issued a substantive response to this request.
2. The Commissioner's decision is that FCDO has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA. No steps are required.

Request and response

3. On 10 January 2023, the complainant made the following request for information to FCDO:

"Dear Foreign, Commonwealth & Development Office,

I wish to see copies of all documents held by the FCO that mention and refer to Kosovo and Serbia between the dates of 24 December 2022 and 9 January 2023."

4. On 7 February 2023, FCDO wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test

considerations in respect of the exemptions under section 27 and section 35 of FOIA.

5. FCDO provided a response on 8 June 2023.

Reasons for decision

6. Section 1(1) of 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."

7. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
8. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.
9. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that "it is best practice for an extension to be for no more than a further 20 working days".¹ This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.
10. On 16 May 2023 the Commissioner wrote to FCDO, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. FCDO wrote to the Commissioner on 31 May 2023 to apologise for the delay in response.
12. In this case, the total time taken by FCDO has exceeded 40 working days. The Commissioner does not consider there to be any exceptional

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, FCDO has not complied with section 17(3).

Right of appeal

13. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

14. 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.
15. 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

**Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**