

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

### **Decision notice**

**Date:** **27 September 2023**

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

**Address:** **70 Whitehall**

**London**

**SW1A 2AS**

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

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1. The complainant requested information regarding the activities of the Rapid Response Unit ("RRU"). By the date of this notice the Cabinet Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority 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.
3. The Commissioner requires the Cabinet Office to take the following step to ensure compliance with the legislation.
  - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information, if held, or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. The Cabinet 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 FOIA and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 15 June 2023, the complainant wrote to the Cabinet Office and requested information in the following terms:

"We are instructed by Big Brother Watch ("BBW") to request information from you under the Freedom of Information Act 2000 ("FOIA") regarding the activities of the Rapid Response Unit ("RRU"), which BBW understands to have operated from within your Department. BBW requests:

- i. Clarification as to the specific legal power relied upon for the activities of the RRU;
- ii. Copies of all policies which governed the work of the RRU, including dates of any revisions; and
- iii. An explanation of the mechanisms that were in place to ensure compliance with the policies governing the work of the RRU.

Without limiting the generality of its request for policies governing the RRU's work, BBW is particularly interested in:

- i. Policies governing the types of issue which the RRU monitored;
- ii. Policies governing the accumulation and analysis of significant amounts of personal data in relation to specific individuals;
- iii. Policies governing the circumstances under which any content may have been referred to social media companies for any reason; and

If you consider it is not possible to provide the information requested due to costs exceeding the limits in s12 FOIA, please provide advice and assistance as to how BBW can refine its request pursuant to s16 FOIA."

6. The Cabinet Office acknowledged the request on 17 July 2023 and explained 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 section 36 of FOIA.
7. To date, a substantive response has not been issued.

## **Reasons for decision**

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8. 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.”

9. 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".
10. 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.
11. 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".<sup>1</sup> This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.
12. On 30 August 2023, the Commissioner wrote to the Cabinet Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
13. Despite this intervention, the Cabinet Office has failed to respond to the complainant.
14. In this case, the total time taken by the Cabinet Office has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the Cabinet Office has not complied with section 17(3).
15. The Cabinet Office is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

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

## 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.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 .....**

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