

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

### **Decision Notice**

**Date:** 22 January 2015

**Public Authority:** Department of Finance and Personnel for  
Northern Ireland

**Address:** Rosepark House  
Upper Newtownards Road  
Belfast  
BT4 3NR

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

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1. The complainant has requested information relating to NICS Live 2015. At the time of issuing this decision notice the Department of Finance and Personnel had not provided the complainant with a substantive response to the request. The Commissioner's decision is therefore that the public authority has failed to respond to the complainant's request within the statutory timescale.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - Provide the complainant with a substantive response to his information request. If the public authority decides to refuse to confirm or deny that the requested information is held, or to withhold any information, then a refusal notice should be issued that complies with the requirements of section 17 of the FOIA.
3. The public authority 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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4. On 23 October 2014 the complainant requested the following information from the Department in respect of NICS Live:
  1. *Total cost of this jolly, including travel and subsistence expected to be paid to staff, staff time allocated to it*
  2. *whether or not external consultants/specialists are being employed to run it, if so total cost and are they a NI based company*
  3. *who sanctioned it, gave final approval, was it HOCS*
  4. *What benefits were gained from the last one (is there an analysis of the last one, can I have sight of it)*
  5. *The purpose of it, what is the actual point and what is to be gained*
  6. *How many jobs could be saved if this was cancelled, and at what grade*
  7. *Is this in the public domain*
5. The Department acknowledged receipt of the request on 11 November 2014.
6. The complainant contacted the Department on 9 December 2014 as she had not received a substantive response. The Department responded the same day but advised that it was unable to say when the request would be answered.
7. On 12 December 2014 the complainant requested an internal review. The Department advised on 15 December 2014 that it did not intend to conduct a review as it was still unable to say when a response would be issued. The Department did however advise the complainant of her right to complain to the Commissioner.

## Scope of the case

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8. The complainant contacted the Commissioner on 16 December 2014 to complain that the Department had not responded to her request.
9. The Commissioner wrote to the Department on 22 December 2014 to request that it respond to the complainant's request. The Department advised the Commissioner on 15 January 2015 that it remained unable to confirm when a response would be issued.

## Reasons for decision

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### Section 1: general right of access

#### Section 10(1): time for compliance

10. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not the requested information is held, unless an exclusion from this duty applies. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
11. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
12. In this case the Department has acknowledged receipt of the request but has provided no substantive response. Despite correspondence from the Commissioner, the Department has failed to confirm or deny that it holds the requested information, and has not disclosed the requested information. Nor has the Department provided a valid refusal notice to explain why it is not required to confirm or deny that it holds the requested information, or why it is not required to disclose the requested information.
13. The Commissioner therefore finds the Department in breach of section 10(1) of the FOIA.

## Other matters

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14. The Commissioner has issued a number of decision notices in the last two months in which he has found that the Department has failed to respond to an information request within the statutory timescale. In each case the Department has advised the Commissioner that the request is "under consideration". In the tenth year of FOIA access rights it is wholly unacceptable that a government department is repeatedly failing to respond to requests without a decision notice requiring it to do so. The FOIA provides a clear, statutory timescale in which the authority is required to consider the request and issue a response. If an authority is unable – or unwilling – to comply with the provisions of the FOIA then the Commissioner will consider whether alternative enforcement action may be appropriate.

## Right of appeal

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15. 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 123 4504  
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)

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
17. 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 .....**

**Gerrard Tracey  
Principal Policy Adviser  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**