ico. Information Commissioner's Office

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **23 March 2016**

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

Decision (including any steps ordered)

1. The complainant requested information relating to foreign national offenders. The Home Office failed to respond substantively to this request.

2. The Commissioner's decision is that the Home Office breached sections 1(1) and 10(1) of the FOIA by failing to respond to this request and it is now required to respond.

3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.

   - Respond to the request.

4. The Home 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

5. On 30 September 2015 the complainant wrote to the Home Office and requested information in the following terms:

   "1. How many foreign national offenders had an asylum application pending when they had committed their crime in the UK.

2. How many foreign national offenders were subject to a failed asylum application when they committed their crime in the UK.
3. How many foreign national offenders have claimed asylum after being convicted of a crime in the UK.
Of those, how many were granted, rejected or still have a decision pending.
4. A list of the crimes committed by foreign national offenders who successfully claimed asylum after being convicted of a crime.

I wish for the information to be given over the following dates:

- *1 September 2014 to 31 August 2015*
- *1 September 2013 to 31 August 2014"*

6. By the date of this notice, the Home Office had failed to respond substantively to this request.

Scope of the case

7. The complainant contacted the Commissioner on 28 January 2016 to complain about the failure by the Home Office to respond to her request.

8. The Commissioner contacted the Home Office on 24 February 2016 and asked it to respond to the request within 10 working days. The Home Office did not respond.

Reasons for decision

Sections 1 and 10

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. Section 10(1) of the 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. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond substantively to the request within 20 working days. At paragraph 3 above the Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

11. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Home Office to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

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Right of appeal

12. 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
    Website: http://www.justice.gov.uk/tribunals/general-regulatory-chamber

13. 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.

14. 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 ……

Ben Tomes
Senior Case Officer
Information Commissioner's Office
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Wilmslow
Cheshire
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