

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 September 2016

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

Decision (including any steps ordered)

1. The complainant has requested information relating to a Soviet agent who worked for the civil service, GCHQ and MI6 in the 1940's.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Respond to the request.
3. 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

4. On 28 March 2016, the complainant wrote to the Home Office and requested information in the following terms:

"I am interested in researching the life of the Soviet agent, who worked for the Civil Service, GCHQ and MI6 in the 1940's. As you may well be aware, a considerable amount of information regarding this individual is already in the public domain as are some records about him. However, I note that the file 'Espionage activities by individuals: John Cairncross' SPL 90/6/2/9 and listed as HO 532/4 by the National Archives has been retained by your department under section 3(3) of the Public Records Act 1958. Of course, I fully appreciate that historical documents can

include information still deemed to be sensitive which may prevent their release. As such, might I enquire whether the aforementioned document might be reconsidered for release? It has been over two decades since the subject of the file died and over six decades since his activities as a Soviet agent came to an end. As such it is difficult to envision that this file would contain information which may still be deemed to be sensitive."

5. The Home Office failed to respond substantively to this request.

Scope of the case

6. The complainant contacted the Commissioner on 30 June 2016 to complain about the refusal of his request.

Reasons for decision

Section 1 and 10

7. 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"*.
8. 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. The Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

9. 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.

Right of appeal

10. 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>

11. 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.
12. 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

Carolyn Howes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF