

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 June 2017

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

Decision (including any steps ordered)

1. The complainant has requested information from the Home Office about the number of food refusals across the detention estate in October, November and December 2016 inclusive.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as they have failed to respond to this request for information.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Home Office must issue a response to this request in accordance with its obligations under FOIA.
4. 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 24 January 2017, the complainant wrote to the Home Office and requested the following information:

*Number of reported food refusals across the detention estate Q4 October/November/December 2016 inclusive
From which IRC's were the reports made and how many."*

6. The Home Office acknowledged the request on 24 January 2017. It stated that it aimed to provide a full response by 21 February 2017.
7. The complainant chased his request on 10 March 2017, which the Home Office responded to on 13 March 2017 with the following statement:

"We are still progressing your request. I regret that we are unable to send you a full response to your request within the time frame required by the Act; this is due to internal delays with the FOI process. I would like to apologise on behalf of the Department for this delay, but I can assure you that we are dealing with your request and we will send you a full reply as soon as possible."

8. Despite the complainant making further enquiries regarding the status of his complaint he has not yet received a substantive response.

Scope of the case

9. The complainant contacted the Commissioner 10 April 2017 to complain about the way his request for information had been handled.
10. The Commissioner has considered whether the Home Office dealt with this request in accordance with its obligations under section 10(1) of the FOIA.

Reasons for decision

11. Section 10(1) of the FOIA states that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

12. The Commissioner finds that the Home Office has breached section 10(1) as it has failed to respond to the complainant within 20 working days.

Other matters

13. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

Right of appeal

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

15. 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.
16. 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

Jon Manners
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF