

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 November 2017

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

Decision (including any steps ordered)

1. The complainant has requested information about pregnant women being held in immigration detention centres. The Home Office failed to respond to the request.
2. The Commissioner's decision is that the Home Office has breached section 10(1) (time for compliance) of the FOIA.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Issue a response to the request in accordance with its obligations under the FOIA.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 25 May 2017, the complainant wrote to the Home Office and requested information in the following terms:

"In the Service Improvement Plan for Yarl's Wood Immigration Removal Centre, dated 11th August 2015, the Home Office set out that management information on the number of women who have disclosed their pregnancy and are being held in detention would from this point on be recorded centrally – see page 3, point 5.12: <http://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2015/08/2015-08-11-FINAL-AGREED-Service-Improvement-Plan-for-Yarls-Wood-IRC.pdf>

Now that this information is being recorded centrally by the Home Office, we request the following information. According to this management information:

- 1) Since 8th November 2016 to the present date, 25th May 2017, how many women who the Secretary of State is satisfied are pregnant have been held in immigration detention?*
 - 2) Of these women, how many were held for up to 72 hours; and for how many was ministerial authorisation granted to hold them for more than 72 hours?*
 - 3) Of these women, how many have been detained on more than one occasion since the implementation of the new time limit on the detention of pregnant women?*
 - 4) Of these women, how many left detention to be removed from the country; and how many were released back into the community, because they were granted leave to enter or remain in the UK, or because they were granted temporary admission or release, or bail?"*
6. The Home Office acknowledged receipt of the request on 26 May 2017. It said that it aimed to send a response by 23 June 2017. However, it failed to do so.
7. The complainant emailed the Home Office on 28 June 2017, asking it to respond. However, the complainant did not receive a response.

Scope of the case

8. The complainant contacted the Commissioner on 6 July 2017 to complain about the Home Office's failure to respond to the request for information.
9. The Commissioner wrote to the Home Office on 7 October 2017, reminding it of its responsibilities and asking it to respond to the complainant's request within 10 working days. She also asked it to forward to her a copy of its response to the complainant.
10. The Commissioner did not receive any copied correspondence from the Home Office and the complainant has confirmed that she did not receive a response to the request within the 10 working day time limit specified by the Commissioner.

Reasons for decision

Section 1 – general right of access

Section 10 – time for compliance

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

"... 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".
13. The complainant requested information on 25 May 2017. As a response has not yet been provided, the Commissioner finds that the Home Office has breached section 10(1) in failing to respond within 20 working days.

Other matters

14. 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 within the statutory timescale. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

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 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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 Information 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

Samantha Bracegirdle
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Information Commissioner's Office
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Cheshire
SK9 5AF