

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 from the Home Office (HO) the total number of sick days taken at Heathrow Border Force, broken down by month, starting on 1st February 2016 and ending on 31st January 2017. The Commissioner's decision is that the HO breached Sections 1 and 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request dated 11 February 2017 in accordance with the FOIA.
3. The HO 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

4. On 11 February 2017 the complainant wrote to the HO and requested information in the following terms:

"Can I please submit an FOI request for the total number of sick days taken at Heathrow Border Force, broken down by month, starting on 1st February 2016 and ending on 31st January 2017? Can I have the stats in total days off sick each month."

5. Having received no response, the complainant wrote to the HO again on 31 March 2017 and on 3 May 2017.
6. To date, the Home Office has not responded to the complainant.

Scope of the case

7. The complainant contacted the Commissioner on 2 August 2017 to complain about the lack of response to his information request.
8. Having ascertained that a response remained outstanding, the Commissioner contacted the HO on 26 October 2017 and asked it to issue a response within seven days.
9. On 24 October 2017 the HO acknowledged the Commissioner's letter. It advised:

"The draft response to request 42841 from [complainant's name redacted] is with Special Advisers awaiting clearance. Given that they are concentrating on those which must be cleared by 31 October, it is highly unlikely that it will be sent by 2 November. You may wish to issue a decision notice."
10. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

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 the FOIA provides 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. From the information provided to the Commissioner it is evident that the HO has not responded to the complainant within the statutory timeframe in respect of this request.
13. The Commissioner's decision is that the HO did not deal with the request for information in accordance with the FOIA. In this case it has breached Sections 1(1) and 10(1) by failing to respond to the request within 20

working days. The HO is now required to respond to the request of 11 February 2017.

Other matters

14. As well as finding above that the HO 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 enforcement action against the HO should evidence from other cases suggest that there are systemic issues within the HO that are causing delays.

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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane

Reference: FS50694152

**Wilmslow
Cheshire
SK9 5AF**