

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 10 May 2019

**Public Authority:** Ministry of Defence  
**Address:** Main Building  
Whitehall  
London  
SW1A 2HB

#### **Decision (including any steps ordered)**

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1. The complainant submitted a meta-request to the Ministry of Defence (MOD) seeking information about how a previous request he had submitted to the public authority had been handled.
2. The Commissioner's decision is that the MOD has breached section 10(1) of the FOIA because it has failed to provide a valid response to the meta-request within the statutory time frame of 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The MOD must issue a substantive response to the request submitted by the complainant on 6 November 2018 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

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5. The complainant submitted the following request to the MOD on 6 November 2018:

*'Under the Freedom of Information Act I wish to request;*

*A copy of all records/documentation/correspondence – including, but not limited to - copies of all internal and external emails, records of discussions, notes, memos and any other record of communication that relates in any way to the tabling and answering of FOI request 2018/11576.'*

6. The complainant contacted the MOD on 12 November 2018 and noted that he had not been provided with an acknowledgment or reference number for this request.
7. The MOD responded on 6 December 2018 and provided a reference number for the new request, FOI2018/13932. The MOD explained to the complainant that this new request included all of the information falling within the scope of his previous request, ie FOI2018/11576, in addition to further information. The MOD noted that the complainant had asked for an internal review of request FOI2018/11576 and in order not to conflict with the processing of the new request, it suggested that it provided the complainant with a response to the meta-request, ie FOI2018/13932, before it completed its internal review in relation to the original request, ie FOI2018/11576.
8. The complainant responded on the same day and asked the MOD to continue processing the internal review of the original request and the respond to the new request at the same time. The complainant noted that the MOD was now overdue in responding to the meta-request and had failed to inform him that an extension was needed.

## Scope of the case

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9. The complainant contacted the Commissioner on 11 February 2019 in order to complain about the MOD's failure to respond to his request of 6 November 2018.<sup>1</sup>
10. The Commissioner contacted the MOD on 27 February 2019 and asked it to complete its internal review in relation to the original request FOI2018/11576 and also noted that it had still failed to respond to the meta-request.
11. Despite this intervention the MOD has still not provided the complainant with a response the request he submitted on 6 November 2018, its reference FOI2018/13932.

## Reasons for decision

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

*'Any person making a request for information to a public authority is entitled –*

*(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and  
(b) if that is the case, to have that information communicated to him.'*

13. Section 10(1) of 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.'*
14. From the evidence provided to the Commissioner in this case, it is clear that the MOD did not deal with the complainant's request of 6 November 2018 in accordance with FOIA. The Commissioner finds that the MOD has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

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<sup>1</sup> The complainant also complained to the Commissioner about the MOD's handling of his original request, ie FOI2018/11576. The Commissioner is dealing with that particular complaint under a separate reference number, FS50821808.

## Right of appeal

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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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**