

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 October 2019

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

Decision (including any steps ordered)

1. The complainant requested figures relating to human trafficking victims held in short-term holding facilities or prisons.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Home Office to take the following step to ensure compliance with the legislation.
 - The Home Office must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Home Office must take this step 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 2 July 2019, the complainant wrote to the Home Office and requested information in the following terms:

"Please provide the number of human trafficking victims (with positive conclusive grounds decisions) or potential human trafficking victims (with positive reasonable grounds decisions) who were held in short-term holding facilities (STHF) or Her Majesty's Prisons under immigration powers.

Please provide both figures separately, accounting for the years 2017 and 2018 also as two separate figures."

6. The Home Office acknowledged the request on 2 July 2019.
7. After 20 working days had passed, the complainant wrote to the Home Office on 5 and 13 August 2019 to chase the response.
8. On 22 August 2019 the Home Office wrote to the complainant to apologise for the delay. It acknowledged that it had failed to respond within the statutory time for compliance. It confirmed that the request was under active consideration but was unable to provide an estimate date for its response.
9. To date the Home Office has not provided a substantive response to the request.

Scope of the case

10. The complainant contacted the Commissioner on 15 August 2019 to complain about the Home Office's failure to respond to her information request.
11. On 11 September 2019 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the Home Office failed to respond to the complainant.
13. The Commissioner has considered whether the Home Office has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

14. Section 1(1) of the 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."

15. 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."*
16. From the evidence provided to the Commissioner in this case, it is clear that the Home Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Home Office 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 the FOIA.

Right of appeal

17. 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

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

18. 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.
19. 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

Andrew White
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF