

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 August 2020

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

Decision (including any steps ordered)

1. The complainant requested information relating to matters he had raised that he understood were being investigated by the Home Office.
2. Although the Home Office has corresponded with the Commissioner regarding this request, it had failed to respond to the complainant about his request at the date of this notice.
3. The Commissioner's decision is that the Home Office failed to respond to the request within the statutory timeframe and has therefore breached section 10 of the FOIA.
4. The Commissioner requires the Home Office to take the following step to ensure compliance with the legislation:
 - issue a substantive response, under the FOIA, to the request.
5. 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

6. On 7 May 2019, the complainant wrote to the Home Office and requested information in the following terms:

"I would like to make a Freedom of Information request. On the 29th of March 2019, the Home Office was contacted by the Parliamentary and Health Service Ombudsman (By [name redacted]), and the Home Office indicated to him that 3 separate complaints made by me to the UKVI Complaints Department were all being investigated. My FOI request is-

I would like to see any evidence that could support the claim that 3 separate issues were - indeed - being investigated by the Home Office. These might include e-mails, requests for responses, or take on any other form that would indicate that the Home Office was looking into 3 separate complaints made to them, rather than 1 single complaint".

7. In the absence of a response, the complainant wrote to the Home Office on a number of occasions, reminding them about his request for information.

Scope of the case

8. The complainant contacted the Commissioner on 22 November 2019 regarding the Home Office's handling of his request for information.
9. Further correspondence followed between the parties, including a review of the Commissioner's handling of the complaint.
10. In the course of that correspondence, the complainant acknowledged that he understood that some of the information within the scope of his request "*might fall into SAR* [subject access request]". However, he confirmed that he had requested all applicable information under the FOIA and wished his complaint to be treated as a FOIA complaint.
11. The Commissioner wrote to the Home Office on 24 June 2020, attaching a copy of the request for information dated 7 May 2019. She asked the Home Office to provide a response to the request that complies with the FOIA. The Commissioner highlighted that the complainant had expressly advised that he wished his request to be dealt with as an FOI request.
12. The Commissioner asked for the response to be provided within 20 working days of the date of her email. She also asked to be provided with a copy of the response that was sent to the complainant.
13. The Home Office acknowledged that correspondence but had failed to provide a substantive response to the complainant by the date of this notice.

14. The complainant contacted the Commissioner, confirming that he had not received a response from the Home Office.
15. The analysis below considers whether the Home Office complied with section 10 of the FOIA.

Reasons for decision

16. 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.
17. 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.
18. From the evidence presented to the Commissioner in this case, she finds that the Home Office breached section 10(1) of the FOIA by failing to comply with section 1(1) of the FOIA within the statutory time period.

Right of appeal

19. 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

20. 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.
21. 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

Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF