

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2020

Public Authority: Parliamentary and Health Service Ombudsman
Address: Millbank Tower
30 Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. The complainant requested information from the Parliamentary and Health Service Ombudsman ("PHSO") about statutory and regulatory details supporting its decisions. By the date of this notice the PHSO had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the PHSO has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the PHSO to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The PHSO 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.

Background

5. The request for information stems from an ongoing complaint from the requester to the PHSO concerning the PHSO's powers in dealing with another organisation. The correspondence suggests the complaint was lodged with the PHSO in January of 2020.
6. When making his request, the complainant made reference to an earlier information request, however, there is no evidence of such an earlier information request having been made.

Request and response

7. On 16 July 2020, the complainant wrote to the PHSO and requested information in the following terms:

"I am also going to again repeat my request that the PHSO provide statutory and regulatory details which support their current stance as without any legal justification you and your colleague are just making statements which neither of you can legally justify and therefore the decisions currently made by you both and on behalf of the PHSO are unlawful.

Please escalate this to your legal department if you have one."

8. To date, a substantive response has not been issued.

Scope of the case

9. The complainant contacted the Commissioner on 1 October 2020 to complain about the failure by the PHSO to respond to his request.
10. The Commissioner has considered whether the PHSO has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

11. 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.

12. 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.”

13. On 15 October 2020 the Commissioner wrote to the PHSO, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

14. On 15 October 2020, the PHSO responded to the Commissioner’s instruction to respond to the request for information, by claiming it was not a valid request.

15. On 16 October 2020, the Commissioner wrote again to the PHSO, advising it that the request was a valid request for recorded information under the FOIA. The Commissioner also reminded the PHSO of its obligations under section 16 of the FOIA, and that in the event a request is not clear, it should contact the requester to obtain and clarify this.

16. Despite this intervention the PHSO has failed to respond to the complainant.

17. From the evidence provided to the Commissioner in this case, it is clear that the PHSO did not deal with the request for information in accordance with the FOIA. The Commissioner finds that PHSO 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

18. 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

19. 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.
20. 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

Ben Tomes
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