

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 November 2020

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant submitted seven information requests to the Health and Safety Executive ("the HSE") for various information relating to a Gas Safe Register investigation into a property and related correspondence.
2. The Commissioner's decision is that the HSE has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the HSE to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The HSE 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

5. On 28 September 2020, the complainant wrote to the HSE and submitted seven information requests as follows.

- a. *"Please supply me with all correspondence from either [redacted] relating to the Gas Safe Register investigation concerning the property at [redacted].*

Please also include copies of any correspondence sent by Gas Safe Register to either [redacted] in relation to the same investigation. Please include any items sent by post or via email.

The timeframe that I am interested in is 1st December 2018 to 1st December 2019.

- b. *Please supply me with all correspondence sent by Gas Safe Register to either the Health and Safety Executive or BAXI relating to the Gas Safe Register investigation concerning the property at [redacted].*

Please also include copies of any correspondence sent by the Health and Safety Executive or BAXI to Gas Safe Register in relation to the same investigation.

Please include any items sent by post or via email. The timeframe that I am interested in is 1st December 2018 to 1st December 2019.

- c. *Please supply me with all internal correspondence sent by any Gas Safe Register employees relating to the Gas Safe Register investigation concerning the property at [redacted].*

Please include any items sent by post or via email. The timeframe that I am interested in is 1st December 2018 to 1st December 2019.

- d. *Please supply me with all correspondence from either [redacted] relating to the Health and Safety Executive investigation concerning the property at [redacted].*

Please also include copies of any correspondence sent by the Health and Safety Executive to either [redacted] in relation to the same investigation.

Please include any items sent by post or via email. The timeframe that I am interested in is 1st December 2018 to 4th March 2020.

- e. *Please supply me with all correspondence sent by the Health and Safety Executive to either the Gas Safe Register or BAXI relating to the Health and Safety Executive investigation concerning the property at [redacted].*

Please also include copies of any correspondence sent by the Gas Safe Register or BAXI to the Health and Safety Executive in relation to the same investigation.

Please include any items sent by post or via email. The timeframe that I am interested in is 1st December 2018 to 4th March 2020..

- f. *Please supply me with all internal correspondence sent by any Health and Safety Executive employees to other Health and Safety Executive employees relating to the Health and Safety Executive investigation concerning the property at [redacted].*

Please include any items sent by post or via email. Please also include any minutes for internal meetings where the above investigation was discussed.

The timeframe that I am interested in is 1st December 2018 to 4th March 2020..

- g. *Please supply me with a copy of the final Health and Safety Executive report relating to the investigation for [redacted]."¹*

¹ Each request has been labelled for the purpose of this notice.

Scope of the case

6. The complainant contacted the Commissioner on 27 October 2020 to complain about the HSE's failure to respond to his request.
7. The Commissioner contacted the HSE on 29 October 2020 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
8. The Commissioner also contacted the complainant on 29 October 2020 to explain that the HSE had been given 10 working days from 29 October 2020 within which to provide a response to their request.
9. The Commissioner contacted the HSE via telephone on 12 November 2020 to no avail.
10. By the date of this notice, the HSE have not provided any evidence to demonstrate that it has issued substantive responses to these information requests.
11. The scope of this notice and the following analysis is to consider whether the HSE has complied with section 10 of the FOIA.

Reasons for decision

12. Section 10 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.*
13. The Commissioner considers that the requests in question fulfilled the above criteria and therefore constituted valid requests for recorded information under the FOIA.
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. The HSE did not provide substantive responses to the above requests within 20 working days of receipt. Therefore, the Commissioner's decision is that the HSE has breached section 10 of the FOIA.

Other Matters

16. The Commissioner notes that some of the requested information is likely to constitute personal data. She would therefore advise the HSE to consider its obligations under the Data Protection legislation when responding to these requests.

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

Ben Tomes
Team Manager
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Wilmslow
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