

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 February 2022

Public Authority: Department for International Trade
Address: Old Admiralty Building
Admiralty Place
London
SW1A 2DY

Decision (including any steps ordered)

1. The complainant requested information from the Department for International Trade ("DIT") about meetings with Syngenta. By the date of this notice DIT had not issued a substantive response to this request.
2. The Commissioner's decision is that DIT has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of the FOIA.
3. The Commissioner requires DIT to take the following step to ensure compliance with the legislation.
 - Having confirmed that information is held within the scope of the request: either disclose the requested information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. DIT 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 12 November 2021, the complainant wrote to DIT and requested information in the following terms:

"Dear FOI Officer,

I am sending this request under the Freedom of Information Act.
This request concerns the following:

- 1) The meeting between Lord Grimstone and Syngenta "To discuss investment post Covid-19" registered as being 20th April 2020.
https://webarchive.nationalarchives.gov.uk/ukgwa/20210511035939mp_/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/930289/DIT-ministers-hospitality-April-to-June-2020.csv

and

- 2) The meeting between Lord Grimstone and Syngenta "to discuss the Investment Council" registered as being on May 18th 2021.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027603/ditministers-meetings-april-to-june-2021.csv/preview

Please provide a copy of:

- All email correspondence between Lord Grimstone or the department, and Syngenta concerning this meeting (setting up and summing up) and any attachments to these emails.
- Please confirm you have checked whether any messages were sent via any private email or other messaging platform used by Lord Grimstone for work purposes in relation to this meeting.
- The minutes of this meeting.
- Any reports, annexes of reference documents provided for and/or utilised at the meeting.
- The attendance list for this meeting. Any texts, WhatsApps, or other messages between Lord Grimstone and Syngenta staff that attended the meeting, related to this meeting."

6. On 10 December 2021 DIT wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 43 of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 12 January 2021 to complain about the delay in DIT's consideration of the public interest test.
8. On 25 January 2021 the Commissioner wrote to DIT, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
9. The Commissioner has considered whether DIT has complied with its obligations in relation to section 17 of the FOIA.

Reasons for decision

10. 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."
11. 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".
12. Section 17(3) of the FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.

13. Although the FOIA does not define what constitutes a reasonable time, the Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days. This means that the total time spent dealing with the request should not exceed 40 working days, unless there are exceptional circumstances. A public authority would need to fully justify any extension beyond 40 working days.
14. In this case, the total time taken by DIT has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, DIT has not complied with section 17(3).
15. DIT is now required to finalise its public interest considerations under section 17(3) of the FOIA and respond to the complainant.

Right of appeal

16. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

17. 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.
18. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF