

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 December 2021

Public Authority: The Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information from the Cabinet Office about email retention arrangements for correspondence to and from Boris Johnson and Michael Gove. By the date of this notice the Cabinet Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the Cabinet Office has breached section 10 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 Cabinet Office to take the following step to ensure compliance with the legislation.
 - The Cabinet Office must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Cabinet 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 18 October 2021, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I am seeking the following information:

How long are emails kept that are sent to or from the following individuals:

- 1. Boris Johnson*
- 2. Michael Gove*

Please provide the following specific information in relation to this request:

- 1. Do any official/unofficial government policies exist surrounding the length of time emails should be retained (both for items received and sent)*
- 2. Are there any Outlook "rules" (or the equivalent in another vendors email application) or automated processes that delete or archive emails after a set period of time? If so, what is the length of time?*
- 3. Please list all the Outlook "rules" or automated processes that the above individuals have applied to their incoming or outgoing emails.*

For the avoidance of doubt, my request pertains to any and all email addresses and accounts that are used by the above named individuals for official government work."

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 November 2021 to complain about the Cabinet Office's failure to respond to their request.
8. The Commissioner has considered whether the Cabinet Office has complied with its obligations in relation to the time for compliance at section 10 of the FOIA.

Reasons for decision

9. 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."

10. 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"*.
11. On 23 November 2021 the Commissioner wrote to the Cabinet Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Cabinet Office has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Cabinet Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Cabinet Office has breached section 10 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

14. 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

15. 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.
16. 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
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