

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 January 2023

Public Authority: Ministry of Defence
Address: Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information relating to British involvement in Ukraine between January 2019 and October 2022. By the date of this notice the Ministry of Defence (the MOD) had not issued a substantive response to this request.
2. The Commissioner's decision is that the MOD has breached section 10(1) of 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 MOD to take the following step to ensure compliance with the legislation.
 - The MOD must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The MOD 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 23 October 2022, the complainant wrote to the MOD and requested information in the following terms:

"I request the following information.

The dates and duration of the flights over the Black Sea area and along the Moldovan and Ukrainian borders carried out by the RAF, Navy or Army, covering the period, 1st January 2019 to 22nd October 2022.

The cost of such flights to include fuel, maintenance and crewing costs.

The dates and duration of British Naval patrols in the Black Sea, the associated costs, of fuel, maintenance and crewing. Such information to cover the above dates.

The cost of deployment of any British land forces within the borders of Ukraine during the above period.

The cost to the U.K. taxpayer of any armaments donated to the Ukrainian Government, armed forces and mercenaries during the specified period.

As the information requested is historical and not of strategic interest to any enemy foreign or domestic, I do not see any reason to withhold full disclosure."

6. To date, the MOD have not acknowledged the request for information and a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 30 December 2022 to complain about the MOD's failure to respond to their request.
8. The Commissioner has considered whether the MOD has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of 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 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 10 January 2023, the Commissioner wrote to the MOD, 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 MOD has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the MOD did not deal with the request for information in accordance with FOIA. The Commissioner finds that the MOD 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 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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