

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 27 February 2014

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

### **Decision (including any steps ordered)**

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1. The complainant requested information about the sex offenders register in Devon and Cornwall. After seeking clarification of the request, and despite a number of letters committing to provide a response, the Home Office has, by the date of this notice, yet to provide a substantive response to the request.
2. The Commissioner's decision is that the Home Office breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation:
  - Issue a response under the FOIA.
4. The public authority 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**

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5. On 22 May 2013 the complainant wrote to the Home Office and requested information in the following terms:

*"I am requesting the following information under the Freedom of Information Act:*

- *The number of people who have been added to the sex offenders register in Devon and Cornwall since it was introduced in 2003. Please may I have one figure for Devon and another for Cornwall.*
- *The number of those who have re-offended since they were added to the sex offenders register. Again may I have separate figures for Devon and Cornwall.*
- *Of those re-offenders can you please tell me how many times each one has re-offended?*

*I would be grateful if you could supply the information as soon as possible. If you are able to supply some of this information more quickly than other items, please supply each item as soon as it is available."*

6. The Home Office sought clarification of the first part of the request on 20 June 2013, which was duly provided by the complainant on 26 June 2013.
7. In the absence of any response, the complainant contacted the Home Office on 6 August 2013. The Home Office carried out an internal review, acknowledging and apologising for the delay, and assured the complainant that the matter was under *"active consideration and being treated as a matter of priority"*.
8. There followed an exchange of correspondence spanning the period August to December 2013. The Home Office assured the complainant that his request was actively being considered and that a response would be provided shortly.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 8 January 2014 to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided.
10. On 14 January 2014 the Commissioner wrote to the Home Office to advise it that the complaint had been accepted.
11. On 24 February 2014 the Commissioner contacted the complainant who confirmed he had yet to receive any response to his request.

12. No substantive response to the request had been provided by the date of this notice.

### **Reasons for decision**

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13. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
14. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt. From the information provided to the Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.

### *Conclusion*

15. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the Home Office is now required to respond to the request of 22 May 2013 in accordance with the FOIA.

### **Other matters**

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16. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

## Right of appeal

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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: 0116 249 4253

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**