

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 May 2014

Public Authority: Charity Commission
Address: 2nd Floor
1 Drummond Gate
London
SW1V 2QQ

Decision (including any steps ordered)

1. The complainant made a freedom of information request to the Charity Commission for copies of all Inquiry reports it published during 2005 and which have since been archived. Whilst the Charity Commission acknowledged that it held the information it failed to provide the information or issue a refusal notice. Therefore the Commissioner's decision is that by failing to provide a substantive response the Charity Commission breached section 10 of FOIA.
2. The Commissioner requires the Charity Commission to take the following steps to ensure compliance with the legislation.
 - The Charity Commission shall disclose the requested information to the complainant or else issue a valid refusal notice in accordance with section 17 of FOIA.
3. 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 10 March 2014 the complainant made a freedom of information request to the Charity Commission which read as follows:

Please provide me with copies of all the Inquiry Reports which you published during 2005 and which have since been "Archived" ie removed from your website, as listed here:

<http://www.charitycommission.gov.uk/our-...>

If feasible I would prefer these to be provided as separate files, please - one file per report - rather than one big file. That makes it easier to find and refer to individual reports. If you must provide it as one big file, I'd appreciate it if you could provide a table of contents for it showing where each report starts.

5. The Charity Commission responded to the request on 9 April 2014 when it explained that it held the requested information but that it was having difficulty responding to the request. No exemption was formally cited by the Charity Commission and it said that it was confident that it would be able to get the information to the complainant.
6. The complainant questioned the response and asked it to clarify why the information could not be provided given that it had confirmed that it held the inquiry reports and these had previously been published on its website. The Charity Commission replied on 17 April 2014. It said that whilst it acknowledged that the information had been published previously it would still have to consider each report it held under the terms of FOIA. It explained that it held approximately 125 reports (including reports it held in connection with a similar request from the complainant which asked for the reports from 2006) and that it would need to review each report to consider whether it was suitable for disclosure.
7. As of 30 April 2014 the Charity Commission has not provided a substantive response to the request.

Scope of the case

8. On 15 April 2014 the complainant contacted the Commissioner to complain about the failure to respond to his request.

Reasons for decision

Section 10 – time for compliance

9. Section 1 of FOIA provides 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 provides that a public authority must comply with the duty under section 1 promptly and in any event within 20 working days. By failing to disclose the information or else issue a proper refusal notice within 20 working days the Charity Commission breached section 10 of FOIA.

Right of appeal

11. 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

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

12. 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.
13. 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

Pamela Clements
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