

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 January 2015

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

### Decision (including any steps ordered)

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1. The complainant has requested information relating to the number of Irish citizens who have been considered suitable for Immigration Removal from the UK back to the Republic of Ireland under TERS (Tariff Expired Removal Scheme).
2. The Home Office (HO) failed to respond to this request for information and the Commissioner's decision is that in doing so the HO breached sections 1(1) and 10(1) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires the HO to take the following steps to ensure compliance with the legislation.
  - Respond to the request.
4. The HO 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 FOIA and may be dealt with as a contempt of court.

### Request and response

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5. On 17 September 2014, the complainant wrote to the HO and requested information in the following terms:

*"I wish to request your advice and assistance, in accordance with the Freedom of Information (FoI) Act 2000 (as per Section 8, 16 and 84 of the said Act) to provide information concerning the mandatory and Administrative [Immigration] Removal of (EEA) Irish nationals from the*

*UK back to the Republic of Ireland. In particular I require information on the following:*

- *Detail of the number of Irish citizens who have been identified as suitable for Immigration Removal from the UK back to the Republic of Ireland under TERS (Tarrif Expired Removal Scheme – as per Prison Service Instruction (PSI 18/2012)), since the introduction of that policy.*
  - *Detail of the number of Irish citizens who have been considered suitable for Immigration Removal from the UK back to the Republic of Ireland under TERS, since the introduction of that policy.*
  - *Details of the number of the number of Irish citizens who are currently subject to Immigration Removal proceedings, from the UK back to the Republic of Ireland under TERS, since the introduction of that policy.*
  - *Detail of the number of Irish citizens who have been removed from the UK back to the Republic of Ireland, under TERS, since the introduction of that policy.*
  - *Detail of the number IFNPs (Indeterminate Foreign National Prisoners) from the Republic of Ireland (Irish citizens) who have subject to immigration/Administrative Removal from the UK back to the Republic of Ireland, for the years 2008-2013.*
  - *Detail of the legal provisions that the Government deems relevant in relation to the legality of removing Irish EEA nationals from the UK back to their country of origin (Ireland).*
  - *Detail of any legal advice the Government has sought in relation to the legality of TERS, apropos the removal of Irish citizens, since the introduction of the TERS policy.*
  - *Disclosure of the legal advice the Government has sought in relation to the legality of TERS, apropos the removal of Irish citizens, since the introduction of the TERS policy.”*
6. At the time of writing the HO had failed to respond substantively to the request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 22 October 2014 to complain about the failure of the Home Office to respond to his request.

## **Reasons for decision**

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8. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
9. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
10. In this case the HO has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days.

## Right of appeal

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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: 0870 739 5836

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

Website: <http://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 .....**

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