

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 April 2016

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

Decision (including any steps ordered)

1. The complainant requested information about the contents of four named Home Office (HO) files on 13 August 2015. HO provided an initial holding reply, citing the section 24(1) FOIA exemption but, despite reminders from both the complainant and the Commissioner, has still not provided a full reply including a public interest balancing test.
2. The Information Commissioner's decision is that HO has breached sections 1(1) and 10(1) of the FOIA in that it has failed to provide a response to the request within the statutory time for compliance.
3. The Commissioner requires HO to take the following steps to ensure compliance with the legislation.
 - Respond to the request.
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

5. On 13 August 2015 the complainant wrote to HO to ask for:

"Please now send me copies of the full contents of the following four files listed in Annex B [of the HO response to case reference 33524]:"

1. LABOUR PARTY POLICY ON SECURITY AND RELATED MATTERS

2. EC DIRECTIVE ON FREEDOM OF ACCESS TO ENVIRONMENTAL INFORMATION

3 & 4. Both files titled OPEN GOVERNMENT"

6. On 14 August 2015 HO acknowledged receipt of the request. On 11 September 2015 HO told the complainant that it held the information requested but that it would apply the section 24(1) FOIA exemption (national security) to withhold it. HO said that it needed to conduct a public interest balancing test and that it would send a final response when consideration of the public interest was complete which in any event would be no later than 9 October 2015.
7. Also on 11 September 2015 the complainant questioned whether the exemption cited applied to all of the requested information or only to some of it. HO did not respond to the question and the complainant sent reminders on 8 and 15 October 2015. On 13 October and 12 November 2015 HO sent holding replies.
8. On 13 December 2015 the complainant sent a further reminder which HO treated as a request for an internal review. On 23 December 2015 HO provided what it described as an internal review. HO apologised for the delay, assured the complainant that his request was under active consideration and was being treated as a matter of priority, but said that it was still not possible to give an exact timescale for a reply.

Scope of the case

9. On 10 February 2016, having heard nothing more from HO, the complainant contacted the Commissioner to complain about the way the request for information had been handled.
10. The Commissioner wrote to HO on 16 March 2016 to remind it of its obligations in respect of such requests and asking it to respond within ten working days which HO did not do.
11. The Commissioner has therefore considered whether the HO complied with sections 1(1) and 10(1) of the FOIA.

Reasons for decision

12. Section 1(1) of FOIA states that:

1(1) Any person making a request 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.

13. Section 10(1) of the FOIA states 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.

14. HO acknowledged receipt of the request on 14 August 2015 and issued a partial response on 11 September 2015. The twentieth working day was 14 September 2015. As HO did not issue a full response by that date – and has still not done so - it has breached sections 1(1) and 10(1) of the FOIA.

Right of appeal

15. 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

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

16. 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.
17. 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
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