

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 November 2016

Public Authority: The Cabinet Office

Address: 70 Whitehall

London
NW3 2XS

Decision (including any steps ordered)

1. The complainant made a request under the provisions of the Freedom of Information Act 2000 (the Act) regarding the EU referendum.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Issue a substantive response to the complainant under the Act by either complying with section 1(1) or issuing a valid refusal notice.
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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

4. On 10 June 2016, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I wish to know who the following information concerning the EU Referendum online voting arrangements and subsequent voting period extension:

1. What were the technical reasons for the online voting registration government web site IT crash that occurred on 7th June 2016?

2. *Are there any technical IT reports setting out the problems and the reasons for the IT crash?*
 3. *If so, what are the contents of these IT reports?*
 4. *Who made the decision to extend the voting period for the EU Referendum to 9th June 2016?*
 5. *Were there any internal ministerial communications regarding extending the EU Referendum voting period to 9th June 2016, and if so what are the contents?*
 6. *Were there any consultations carried out regarding extending the EU Referendum to 9th June 2016, and if so, which bodies were consulted?*
 7. *What are the contents of any government consultation requests and responses regarding extending the EU Referendum to 9th June 2016?"*
5. Following the intervention of the Commissioner, the Cabinet Office acknowledged receipt of the request on 20 July 2016.
 6. To date no substantive response has been issued.

Scope of the case

7. The complainant contacted the Commissioner on 11 July 2016 and again on 19 September 2016 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of the case to be whether the Cabinet Office has complied with section 10(1) of the Act.

Reasons for decision

9. Section 1(1) of the Act states:
"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 the Act states:
"Subject to subsections (2) and (3), 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."
11. The complainant sent his request by email to foi.team@cabinet-office.gsi.gov.uk on 10 June 2016.

12. On 11 July 2016, the complainant contacted the Commissioner as he had not received a response to his request.
13. The Commissioner contacted the Cabinet Office on 16 July 2016 to remind it of its obligations under the Act and to request a response be issued to the complainant within 10 working days.
14. The Cabinet Office contacted the complainant on 20 July 2016 to acknowledge receipt of the request and explained to the complainant that the email address foi.team@cabinet-office.gsi.gov.uk was no longer in use.
15. The complainant contacted the Commissioner again on 19 September 2016 to complain that he had still not received a response to his request for information.
16. The Commissioner has previously advised the Cabinet Office that requests do not need to be made to specific staff members or email addresses to be valid under the Act.
17. The Commissioner considers that, in the absence of an 'email undeliverable' message or an automated response stating the above email address is no longer in use, emails sent to this address are received by the public authority and the statutory timeframe starts on from the date the email is delivered to the server.
18. The Commissioner therefore considers that the twentieth working day following receipt of the request was 8 July 2016.
19. As the Cabinet Office did not issue a response by this date, and has still not done so, it has breached section 10(1) of the Act.

Right of appeal

20. 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

21. 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.
22. 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

Andrew White
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