

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

### **Decision notice**

**Date:** 18 October 2018

**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 relating to rough sleeping European Economic Area (EEA) nationals.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Home Office to take the following step to ensure compliance with the legislation.
  - The Home Office must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Home Office must take this step 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 9 August 2018, the complainant wrote to the Home Office and requested information in the following terms:

- "1. Have removal decisions, detentions, or actual removals of rough sleeping EEA nationals been a factor in performance related pay, incentivisation schemes, reward and recognition schemes, or any related schemes for any civil servants or contractors of the Home Office or other government departments of which the Home Office is aware? (For the avoidance of doubt, the decisions, detentions, and actual removals referred to are those that have taken place whether under the policy European Economic Area (EEA) Administrative Removal version 1.0 to 4.0 or under any other policy, and whether on the basis of the Immigration (European Economic Area) Regulations 2006 reg 19(3)(a) or 19(3)(c) or the Immigration (European Economic Area) Regulations 2016 reg 23(6)(a) or 23(6)(c), or any other provision.)*
- 2. If such actions have formed a factor in any such scheme please provide the details of the incentivisation scheme.*
- 3. If such actions have formed a factor in any such scheme which also incentivised similar actions against people who would not be classed as rough sleeping EEA nationals, please provide the details of the incentivisation scheme.*
- 4. Please set out how many civil servants and separately how many contractors benefitted from any such scheme(s), and to what extent. Please break this data down to the greatest extent possible."*
6. The Home Office wrote to the complainant on 20 September 2018 to apologise for the delay and acknowledged that it had received the request on 9 August 2018.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 20 September 2018 to complain about the Home Office's failure to respond to his information request.
8. On 24 September 2018 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Home Office has failed to respond to the complainant.

## Reasons for decision

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10. Section 1(1) of FOIA states 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."*

11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*

12. From the evidence provided to the Commissioner in this case, it is clear that the Home Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Home Office has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

## Right of appeal

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

14. 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.
15. 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** .....

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**