

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 August 2021

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested information from the Health and Safety Executive ("the HSE") relating to the number of HSE "spot checks" undertaken during the period April 2020 to the end of March 2021. By the date of this notice, the HSE had not provided a substantive response to the request.
2. The Commissioner's decision is that the HSE has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the HSE to take the following steps to ensure compliance with the legislation.
 - The HSE must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The HSE 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 20 May 2021, the complainant wrote to the HSE and requested information in the following terms:

"Please advise the following figures on a monthly basis from start of April 2020 to end March 2021. Number of HSE 'spot checks' undertaken, and under which category - Covid-19 or non-Covid-19.

Of these, what has been the result if these 'spot checks':

No action

Provided specific advice

Stopped certain work practices until made safe

Issued enforcement notices

Prosecution where business failed to comply"

6. The HSE did not acknowledge the request. However, the complainant has provided evidence to the Commissioner which shows that the request was sent to the HSE's published email address. Therefore, the Commissioner has assumed that the request was received by the HSE.
7. On 28 June 2021, as the complainant had not received a response, he wrote to the HSE to ask for an update on the status of his request.
8. The complainant also contacted the Commissioner on 28 June 2021 to complain about the HSE's failure to respond to his request.
9. On 9 July 2021 and 16 July 2021, as the complainant had not received a response to his request, he wrote to the HSE again to ask for an update on the status of his request

Scope of the case

10. The Commissioner contacted the HSE on 20 July 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner contacted the complainant on 21 July 2021 to explain that the HSE had been given 10 working days from 20 July 2021 within which to provide a response to his request.
12. The complainant contacted the Commissioner on 21 July 2021 and explicitly requested that a decision notice be issued which highlights the breach of the statutory timeframe under the FOIA.

13. By the date of this notice, the complainant had not received a substantive response to his information request.
14. The scope of this notice and the following analysis is to consider whether the HSE has complied with section 10 of the FOIA.

Reasons for decision

15. Section 1(1) of the 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.*

16. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.
17. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
18. The HSE did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the HSE has breached section 10 of the FOIA.

Right of appeal

19. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

20. 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.
21. 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

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