

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

### **Decision notice**

**Date:** 24 November 2021

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Health and Safety Executive ("the HSE") about fees for intervention. By the date of this notice the HSE had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the HSE 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 HSE to take the following steps to ensure compliance with the legislation.
  - Respond to the complainant's request in accordance with 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

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5. On 12 July 2021, the complainant wrote to the HSE and requested information in the following terms:

*"Could you please advise by email, or in a readable and editable format or hard copy if considered appropriate, the following information by financial year from 2012/2013 to 2020/2021).*

*1. How many FFI invoices:*

*a. Have been issued?*

*2. How many FFI invoices have been subject to:*

*a. A formal query ?*

*3. How many FFI invoices, which have been the subject of a formal query been:*

*a. Upheld in full?*

*b. Partially upheld?*

*c. Rejected in full?*

*4. How many FFI invoices have been submitted:*

*a. To the Independent Dispute Panel?*

*5. How many FFI invoices, submitted to an Independent Dispute Panel have been:*

*a. Upheld?*

*b. Partially upheld?*

*c. Rejected?*

*6. How many FFI invoices, awaiting a formal Dispute Panel have been:*

*a. Re-assessed by HSE internally and upheld before being presented to the Independent Dispute Panel?*

*7. How many FFI Formal Disputes are awaiting review by the Independent Disputes Panel by:*

*a. Date of submission; and*

*b. The financial value of fees?*

*8. How many disputes are held in abeyance?*

*a. Pending the completion of an HSE investigation?*

*b. What is the financial value of fees held in abeyance pending completion of an HSE investigation?*

*9. How many Independent Dispute Panels have been convened?*

*a. By financial year?*

*10. How many FFI Disputes have gone to civil action for recovery?*

*a. How many have been successful for HSE?*

*b. How many have been unsuccessfully challenged by HSE?*

*11. How much has the FFI Scheme cost to run against fees generated?*

*a. By year from 2012?"*

6. To date, a substantive response has not been issued.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 29 October 2021 to complain about the failure by the HSE to respond to his request.
8. The Commissioner has considered whether the HSE has complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

### **Reasons for decision**

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9. 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.*

10. 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."
11. On 5 November 2021, the Commissioner wrote to the HSE, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the HSE has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the HSE did not deal with the request for information in accordance

with the FOIA. The Commissioner finds the HSE 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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14. 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](mailto:grc@justice.gov.uk)

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

15. 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.
16. 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 .....**

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