

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

### **Decision notice**

**Date:** 22 August 2022

**Public Authority:** The Home Office

**Address:** 2 Marsham Street  
London  
SW1P 4DF

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

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1. The complainant submitted a request for information to the Home Office for an electronic copy of the report that informed the costings in their 'Tackling Child Sexual Abuse Strategy' ("TCSA") report published in January 2021.
2. The Commissioner's decision is that the Home Office has incorrectly cited section 21 (information readily available) under FOIA.
3. The Commissioner acknowledges that the costings report informing the TCSA was available at the time of the Home Office response and has noted they provided a link to the report. However, the report was not published or available at the time of the request in September 2021. This is a requirement of section 21 of FOIA.
4. The Home Office breached sections 1(1)(a) and 10(1) of the FOIA by failing to respond to the request within the 20 working day time for compliance.
5. The Commissioner does not require the Home Office to take any additional steps in relation to this decision notice.

## Request and response

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6. On 13 September 2021, the complainant wrote to the Home Office and requested information in the following terms:

"I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act. In order to assist you with this request, I am outlining my question as specifically as possible. If, however my request is too wide or unclear, I would be grateful if you could contact me as I understand that under the Act, you are required to advise and assist applicants.

At paragraph 74 of a Home Office document published in January 2021 titled 'Tackling Child Sexual Abuse Strategy' the following passage appears:

*The Home Office has recently completed work that estimates the financial and non-financial (monetised) cost relating to all victims who continued to experience contact sexual abuse, or who began to experience contact sexual abuse, in England and Wales in the year ending 31 March 2019. This is estimated to be at least £10 billion and includes the costs of this cohort being victimised in previous and future years, in addition to lifetime consequences as a result of experiencing child sexual abuse. (It should be noted that due to the way some costs are incurred over a victim's lifetime, this cannot be used as an annual or an in-year cost). The estimate includes costs ...*

There is no citation for the document from which the passage is taken. I wish to be provided with an electronic copy of the report from which the passage is taken.

I understand that under the Act, I should be entitled to a response within 20 working days. I would be grateful if you could confirm in writing that you have received this request. I look forward to hearing from you."

7. The Home Office responded on 16 December 2021. They confirmed they held the information and it had recently been published. The Home Office provided a link to the report on their website. They stated section 21 (1) of FOIA exempted them from providing the information as it was already reasonably accessible to the complainant.
8. The complainant requested an internal review of his request on 22 December 2021. The complainant indicated the report on the link provided by the Home Office, was published in December 2021, whilst the request was made in September 2021. They explained that they

wished to have a copy of the report that they believed must have predated the Child Abuse Strategy report in January 2021.

9. The Home Office provided their internal review response on 11 February 2022. They confirmed they had made enquiries and stated the following:

"The unit has confirmed that the report titled "The economic and social cost of contact child sexual abuse," was completed in January 2021 and prior to the publication of the TCSA Strategy. The 13 December 2021 date is the date of publication only. A link was provided in the original response. The headline figure of £10billion was first published in the TCSA Strategy and the requested report provides background to how this was calculated."

The Home Office confirmed it maintained its original view that section 21 of FOIA was engaged.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 21 February 2022 to complain about the response and the way the Home Office had handled their request for information. They maintained that the report provided could not be correct as its publication did not pre-date the TCSA strategy report published in January 2021.
11. The Commissioner accepts the Home Office has provided the information requested. Whilst he notes the complainant's concerns, the Home Office have clearly stated that the report provided in the link, informed the TCSA strategy, even if published at a later date. However, it is apparent to the Commissioner that the report was not in the public domain until December 2021 and not "readily accessible" to the complainant at the time of the request.
12. Therefore, the scope of this notice and the following analysis is to consider whether the Home Office has correctly applied section 21 of FOIA. Additionally, the Commissioner will also consider whether the Home Office has complied with section 10 of FOIA, in view of the delayed response to the initial request.

## **Reason for Decision**

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### **Section 21 - information reasonably accessible**

13. Section 21 of FOIA states:

“(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.”

14. Section 21 is an absolute exemption, which means there is no requirement to carry out a public interest test if the requested information is exempt.
15. Information is regarded as being in the public domain if it is reasonably accessible to the general public at the time of the request. If only part of the requested information is in the public domain, section 21 can only apply to that part of the request.
16. In this case no information in the scope of the request was in the public domain at the time of the request.
17. The publication of the report is confirmed as taking place in December 2021. As the publication date postdates the request, the Commissioner finds that the exemption was not engaged at the time of the request and has been applied inappropriately by the Home Office in their response.
18. The Commissioner finds, from the details provided to him, that the information held at the time of the request, namely the report with the title “The Economic and Social Cost of Contact Child Sexual Abuse”, is the same as the information now provided to the complainant. The Home Office confirmed this fact in their response. They advised that this report, informed their “Tackling Child Sexual Abuse Strategy” report in January 2021, was completed in January 2021 prior to the publication of the strategy report, but was not published in its own right until the much later date of 13 December 2021.

### **Section 10 – time for compliance**

19. 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.

20. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,
  - (b) states the name of the applicant and an address for correspondence, and
  - (c) describes the information requested.
21. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under FOIA.
22. Section 10 of 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."
23. From the evidence presented to the Commissioner in this case in failing to issue a response to the request within 20 working days, the Home Office has breached section 10 of the FOIA.

## Right of appeal

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24. 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@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)

25. 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.
26. 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 .....**

**Phillip Angell**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**