

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 October 2022

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

Decision (including any steps ordered)

1. The complainant has requested a specific case file. At the date of this notice the Health and Safety Executive (HSE) has not provided a response to the request.
2. The Commissioner's decision is as follows:
 - The HSE has breached section 10(1) of FOIA as it has not responded to the request within the required timescale.
3. The Commissioner requires the HSE to take the following step to ensure compliance with the legislation:
 - Provide a response to the complainant's request of 17 January 2022 that complies with FOIA.
4. The HSE 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

5. On 17 January 2022 the complainant wrote to the HSE and requested information in the following terms:

“Thank you for your reply however this is not what I requested. You have sent what I submitted to the HSE when reporting the health and safety issues at [redacted]. What is missing is the separate attachment that I sent, it was the report that I gave the M.D titled Observations and Concerns. It is mentioned on line six in the document that you have sent to me, I hope that this points you to the missing information. Thank you.”

6. The complainant chased HSE for a response in May 2022 and subsequently but did not receive one.

Scope of the case

7. The complainant contacted the Commissioner on 4 September 2022 because they had not received a response to their request.
8. The Commissioner wrote to the HSE on 12 September 2022 and instructed it to respond to the request within 10 working days. The complainant contacted the Commissioner on 27 September and 3 October 2022 to confirm that they still had not received a response.
9. The Commissioner has considered the HSE’s compliance with section 10(1) of FOIA.

Reasons for decision

10. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
11. Under section 10(1) of FOIA a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
12. In this case, the complainant submitted their request on 17 January 2022 and, to date, has not received a response. The HSE has therefore failed to comply with section 10(1) of FOIA.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF