

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 January 2012

Public Authority: The Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant submitted a request to the Home Office on 8 July 2011 although she did not receive a substantive response to this request until 20 December 2011. The complainant asked the Commissioner to consider whether the Home Office breached the Freedom of Information Act (FOIA) in its handling of this request by failing to provide her with a timely response.
2. The Commissioner has established that the Home Office did not receive the complainant's request in July and once it received the request in November it did provide a response within 20 working days, the time period required by FOIA. The Commissioner has therefore concluded that in the particular circumstances of this case, the Home Office did not breach FOIA.

Request and response

3. On 8 July 2011 the complainant sent the Home Office the following request via the WhatDoTheyKnow.com website:

'Please can you supply information relating to all/any requests made by Northumbria Police for emergency and/or additional funding, grants or any other payments/funding to the Home Office, HMG and/or all/any other Government departments over and above the funding which is allocated to Northumbria Police by the Home Office each year, including following;

1. *How many times have Northumbria Police requested or*

received emergency and/or additional funding, grants or any other payments/funding from above parties during the past 12 years.

2. Please give full details of all emergency and/or additional funding, grants or any other payments/funding paid to Northumbria Police by any of above parties during the last 12 years.

3. Please give full details and reason/s for Northumbria Police's requesting and/or being allocated such emergency and/or additional funding, grants or any other payments/funding from above parties during past 12 years.

4. Please supply all information and documents regarding criteria used and/or required by all of above parties before emergency and/or additional funding, grants or any other payments/funding are awarded and/or paid to Police forces in the UK.

5. Please give full details, information and supply documents of different types of emergency funding, grant/s and/or all/any other additional funding that is available to UK Police Forces over and above the standard funding paid to each Police Force annually.'

4. Having failed to receive any response to her request, the complainant chased the Home Office for a response (again via WhatDoTheyKnow.com) on the following dates: 17 September 2011, 26 September 2011, 28 October 2011, 5 November 2011 and 15 November 2011.
5. The Home Office did respond to the complainant's message of 17 September 2011 by explaining that it was still undertaking public interest test assessments in respect of two other requests that she had submitted to it. However the Home Office made no reference to her request of 8 July 2011.
6. The Home Office contacted the complainant on 17 November 2011 and explained to her that although it had received her message of 15 November 2011, it had not received her original request of 8 July 2011. The Home Office therefore asked the complainant to provide it with a copy of her request.
7. The complainant contacted the Home Office on 18 November 2011 and directed it to a copy of her request as it appears on the WhatDoTheyKnow.com website.

8. The Home Office contacted the complainant again on 1 December 2011 and acknowledged receipt of her email of 18 November, which it noted it had received on 22 November. In this response the Home Office explained that although it had received two other requests from her, both submitted via the WhatDoTheyKnow.com and that it was in the course of processing these requests, it had not received her request of 8 July pertaining to additional funding for Northumbria Police. The Home Office noted that unfortunately her emails chasing up a response to this latter request were assumed to relate to the two requests which the Home Office had in fact received and were in fact processing. The Home Office apologised for this confusion.
9. The Home Office provided the complainant with a response to her request on 20 December 2011.

Scope of the case

10. The complainant originally contacted the Commissioner on 8 November 2011 in order to complain about the Home Office's failure to respond to her request of 8 July 2011. At the time this notice is being issued the Home Office has issued its response to this request. However, the complainant has asked the Commissioner to issue a notice to consider whether the Home Office complied with its obligations under FOIA when handling this request, specifically whether it responded to her request in line with the time period required by FOIA.

Reasons for decision

11. Section 10(1) of FOIA states that public authorities:

'must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt'.

12. Section 10(6) states that 'date of receipt' means:

'the day on which the public authority receives the request for information'

13. As is clear from the details set out above the complainant submitted her request on 8 July 2011. As is also clear from the above the Home Office did not issue a substantive response to this request until 20 December 2011. The time to answer this request therefore clearly exceeds the twenty working days specified by FOIA.

14. However, section 10 of FOIA is unambiguous in stating that the twenty working day time period for responding to a request begins once a public authority actually **receives** a request. The time period does not begin from the date when the request is submitted by an applicant. In the circumstances of this case the Home Office did not receive the complainant's request of 8 July 2011 until 22 November 2011 (i.e. when it received her email of 18 November directing the Home Office to her original request) and provided its response on 20 December 2011. Therefore the Commissioner must find that the Home Office complied with its obligations under section 10(1) of FOIA. This is because it responded to the request within 20 working days of actually receiving the request.

Other matters

15. Despite the Commissioner's conclusion above, he can fully understand the complainant's frustration that despite making a request in July 2011 it took over six months for her to receive a response. The Commissioner notes that the complainant submitted her request via an established website. Therefore although the complainant did not submit the request directly to the Home Office (she did so via a third party website), the Commissioner recognises that she would have had a reasonable expectation that her request would have been received by the Home Office. Furthermore, the Commissioner appreciates that the complainant made a number of attempts to chase up the lack of a response to her request. The Commissioner also notes the Home Office's acknowledgment to the complainant that there was some confusion on its part as to the exact request to which her chaser emails related to.

16. In short, for reasons which are entirely out of her control, the complainant had to wait six months to receive a response to her request which the Commissioner considers to be a regrettable position for her to be in. However, for the reasons discussed above given that the original request was not received by the Home Office, there has been no breach of FOIA by it in the processing of this request.

17. More broadly, the Commissioner wishes to emphasise that although the request in this case was submitted via the WhatDoTheyKnow.com website, such a scenario could of course have arisen if the request had been submitted via the post or indeed via an email directly to the public authority. In the Commissioner's opinion it is impossible for any means of communication to be considered to be one hundred per cent guaranteed and sometimes a request, whatever the means by which it has been sent, can go missing; this case is just one of those rare but unfortunate scenarios.

Right of Appeal

18. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

19. 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.
20. 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

Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF