

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 September 2012

Public Authority: The Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps)

1. The complainant has requested information about the retention of messages made on the Prime Minister's mobile phone. Although acknowledged, to date he has had no substantive response. The Information Commissioner's decision is that the public authority must take the following steps to ensure compliance with the FOIA.
 - It must confirm or deny whether the requested information is held.
 - If information is held, it must either provide it or issue a valid refusal notice as set out in the FOIA.
2. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information 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.

Background

3. The request can be followed on the "*what do they know*" website:

http://www.whatdotheyknow.com/request/mobil_phone_communication_betwee

Request and response

4. On 9 March 2012, the complainant wrote to the public authority and requested information in the following terms:

"Our Prime Minister is in possession of a mobile phone paid for by taxpayers money that he uses to communicate with, amongst others, the Deputy Prime Minister Nick Clegg.

Since both phones are covered by the Freedom of Information Act, the SMS Text Messages will, I presume, be archived along the same manner as other such communications as has been in the past.

Given the Prime Minister's telegrams and telephone conversations in the past have been archived, can I ask the Cabinet Office of the steps that are being taken to archive the Prime Minister's SMS Text Messaging Communications with the Deputy Prime Minister and other government politicians, ministers and officials?

When will these text messages be available for the public to scrutinise?"

5. The public authority acknowledged receipt on 9 March 2012 but then failed to respond. On 11 and 16 April 2012 the complainant chased a response, but none was received.

Scope of the case

6. On 20 April 2012 the complainant first emailed the Information Commissioner to advise that he had received no response to his request. The Information Commissioner wrote to the public authority on 8 June 2012 asking for it to respond.
7. Having still received no response, the complainant wrote to the Information Commissioner again on 30 July 2012.

Reasons for decision

8. The Information Commissioner considered whether the public authority has responded to the request of 9 March 2012 in line with the provisions of the FOIA.
9. Despite the intervention of the Information Commissioner, the public authority has neither responded to the complainant's request for information nor conducted an internal review.
10. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
11. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the complainant within the statutory time frame. It is therefore in breach of the FOIA.

Right of appeal

12. 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

13. 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.
14. 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

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