

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 March 2013

Public Authority: Ministry of Defence
Address: Main Building
Whitehall
London
SW1A 2HB

Decision (including any steps)

1. The complainant has requested information about military assistance with Nigeria; to date he has not received a substantive response. The Information Commissioner's decision is that the public authority has failed to provide a response to the request within the statutory time frame of 20 working days. He requires it to issue a response.
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.

Request and response

3. Following earlier correspondence, on 3 July 2012, the complainant wrote to the public authority and made the following refined request for information:

"1. MoUs: please provide me with the MoUs between Nigeria and the UK which relate to the military assistance programme. (Note that in addition to the MoUs discussed with Ms Renshaw, two MoUs in 2008 are referred to here and a proposed MoU in November 2011 is mentioned here. I would like to see all of the MoUs.)"

2. Figures for actual and/or budgeted expenditure on the military assistance programme to Nigeria between 1 April 2010 and 31 March 2012, broken down by allocation of costs (for example, by specific courses). Any proposed budgets in this programme for 2012 2015 in a similar format.

3. What are the details of the procurement under the military assistance programme to Nigeria between January 2008 to July 2012?"

4. Having received no acknowledgement the complainant emailed again on 16 July 2012; an acknowledgement was emailed to him on 18 July 2012. The complainant chased a response on several occasions.
5. The most recent response the complainant has received from the public authority, dated 13 February 2013, stated:

"Thank you for your email and I apologise once again for the delay you have experienced ... As I am sure you can appreciate the Africa team is quite busy at the moment with a number of competing priorities. I would like to reassure you though that, despite the length of time we have taken to respond, some progress has been made on your requests and we will provide a substantive response just as soon as we are able".

Scope of the case

6. Following earlier correspondence, on 30 January 2013 the complainant contacted the Information Commissioner to complain about the lack of response by the public authority to his request for information.

Reasons for decision

7. The Information Commissioner considered whether the public authority has responded to the request of 3 July 2012 in line with the provisions of the FOIA. Despite the intervention of the Information Commissioner, who wrote to the public authority about its lack of response, the public authority has not responded to the complainant's request for information.
8. 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.
9. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the

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complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

Right of appeal

10. 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,
Arnhem House,
31, Waterloo Way,
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

11. 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.
12. 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**