

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 February 2014

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

Decision (including any steps ordered)

1. The complainant has requested information about the preliminary Detainee Inquiry report sent to the Prime Minister on 27 June 2012. By the date of this notice the Cabinet Office had yet to provide a substantive response to this request. The Information Commissioner's decision is that the Cabinet Office breached section 10 of the FOIA in that it has failed to provide a response to the request.
2. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation:
 - Issue a response to the request under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
3. 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 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

4. On 24 September 2013, the complainant wrote to the Cabinet Office and requested information in the following terms:

" I would like to request, under the Freedom of Information Act, the release of the preliminary Detainee Inquiry report that was sent to the

*Prime Minister on 27 June 2012.
(http://www.parliament.uk/documents/commons-vote-office/July_2012/17-07-12/21-Justice-Detainee-Inquiry.pdf)”.*

5. The complainant did not receive an acknowledgement from the Cabinet Office.
6. In the absence of any acknowledgement or response, the complainant wrote to the Cabinet Office on 17 October 2013 and again on 24 October 2013 requesting an update on his request. He received no response.

Scope of the case

7. The complainant contacted the Commissioner on 6 November 2013 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider the fact that no substantive response had been provided.
8. The Commissioner wrote to the Cabinet Office on 19 November 2013 asking it to respond to the request. In the absence of any response the Commissioner wrote again to the Cabinet Office on 11 December 2013 advising that the complaint would be investigated. In telephone calls with the Commissioner the Cabinet Office has indicated it had received the request and would be seeking to respond.
9. No substantive response to the request had been provided by the date of this notice

Reasons for decision

10. Section 1(1) of FOIA states that:

1(1) Any person making a request 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.*

11. Section 8(1) of FOIA states:

8(1) 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.*

12. The Commissioner considers that the request in question fulfilled these criteria, and therefore constituted a valid request for recorded information under the FOIA.
13. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
14. From the information provided to the Commissioner it is evident that the Cabinet Office did not respond to the complainant within the statutory timeframe in respect of this request.
15. The Commissioner's decision is that the Cabinet Office did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. As it has still not responded to the request, the Cabinet Office is now formally required by the Commissioner to respond to the request of 24 September 2013.

Right of appeal

16. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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
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