

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 October 2014

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

Decision (including any steps ordered)

1. The complainant requested information relating to a poll regarding the Scottish independence referendum. The Cabinet Office issued its response after 65 working days, which is a breach of section 17 of the Freedom of Information Act 2000 (the Act). However as the Cabinet Office has issued its response no further action is required.

Request and response

2. On 15 May 2014, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I am seeking information related to expenditure dated 2014-01-21 which related to the "Devolution Team". Ipsos Mori, presumably, undertook work in return for the expenditure.

Could I please have the following information:

1. *Who commissioned, ordered, requested, or signed off on, Ipsos Mori undertaking such work? For example, was it a head of a team, or a project manager? For example, did a head of a department do so on the orders of politician, and if so who?*
2. *What, if any, was the rationale or "business case" given for commissioning or requesting the work?*

- 3. What requirements were Ipsos Mori given? Insofar as Ipsos Mori may have written some of the requirements themselves, what requirements did the Devolution Team or Cabinet Office (etc.) agree to or sign off on?*
 - 4. What questions did Ipsos Mori ask? I mean this in the context of undertaking polls, etc. I am also interested in each question's standard or permitted answers, which for example might be "Yes / No / Don't Know".*
 - 5. Any and all outputs or results of the work by Ipsos Mori. In particular, tabular polling results, graphs, spreadsheets, brochures and summarising documents.*
 - 6. Any discussion or orders or criteria (etc.) regarding whether to publicly release the output or results of the work. This is regardless of whether any such hypothetical public release would have included everything, or instead would have contained only summarised or partial results. For the avoidance of doubt I don't include any other FoI requests; I do include documents or orders relating to a media strategy for the polling results.*
 - 7. The names of the people, and departments or agencies or organisations etc. who were sent the outputs or results of the work. This is whether the outputs sent were full or instead summarised. For example, documents from Ipsos Mori may have been forwarded by email outwith the department, to other departments or to politicians."*
3. The Cabinet Office wrote to the complainant on 13 June 2014. It confirmed that information was held but it was exempt under section 35 of the Act. The Cabinet Office informed the complainant that it needed more time to consider the public interest test and aimed to provide its final response within another 20 working days.
 4. The Cabinet Office issued its refusal notice to the complainant on 15 August 2014. This response refused the information under sections 22, 35 and 43 of the Act, and stated that the public interest test favoured maintaining the exemptions.

Scope of the case

5. The complainant contacted the Commissioner on 15 July 2014 to complain about the delay in receiving a substantive response to his request for information.

6. The Commissioner considers the scope of the case to be whether the Cabinet Office issued its response in accordance with section 17 of the Act.

Reasons for decision

7. Under section 10(3) of the Act, a public authority may extend its response beyond the statutory 20 working day limit. The criteria for this are that an exemption must apply, and the public authority requires more time to consider the public interest test.
8. Section 17(1) of the Act states that if a public authority wishes to withhold information that comes within the scope of a request because it is exempt then it must issue a refusal notice. This notice must state what exemptions apply and the reasons why they apply.
9. Section 17(3) of the Act provides that the time taken to consider the public interest test must be "reasonable in the circumstances", which the Commissioner interprets as up to a further 20 working days.
10. The Cabinet Office informed the complainant on the twentieth working day that section 35 applied to the requested information and further time was required to consider the public interest. The Cabinet Office decided to withhold the information and issued its substantive refusal notice to the complainant 65 working days after the request was received.
11. The Commissioner considers this to be a breach of section 17(3) as it is not reasonable in the circumstances to take this long to provide a refusal notice to the request.
12. As the Cabinet Office has now issued its refusal notice, no steps are required.

Other matters

13. The Commissioner notes that in the Cabinet Office's response of 13 June 2014 it stated that section 35 applied, but in the refusal notice of 15 August 2014 stated that section 22, 35 and 43 applied. The extension permits an authority to have more time to consider the public interest test. The extension is not intended to allow a public authority to apply further exemptions, as all exemptions should be identified within the initial 20 working days. The Commissioner would ask the Cabinet Office remember this when handling requests in future.

Right of appeal

14. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

15. 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.
16. 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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