

Freedom of Information Act 2000

Decision notice

Date: 13 July 2015

Public Authority: Cabinet Office

Address: 70 Whitehall

London

SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested emails exchanged between the Cabinet Office's Director General of Propriety and Ethics and Head of Private Offices Group and four named special advisors to government ministers.
2. The Commissioner's decision is that the Cabinet Office has breached sections 1 and 10 of the Freedom of Information Act 2000 (the Act) because it has not issued a response to the complainant's request.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - Issue a substantive response to the complainant under the Act.
4. 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

5. On 2 March 2015, the complainant wrote to the Cabinet Office and requested information in the following terms:

Under the terms of the Freedom of Information Act, I would like all email currently held by Sue Gray [Director General of Propriety and Ethics and Head of Private Offices Group] that was sent to or received from Nick Timothy, Stephen Parkinson, Oliver Dowden or Laura Trott.

This should take a few minutes: you can sort inboxes by "From" and sent items folders using the "To" fields.

6. The Cabinet Office acknowledged the request on 2 March 2015, but to date the Cabinet Office has not issued a substantive response to the request in accordance with the Act.

Scope of the case

7. The complainant contacted the Commissioner on 11 June 2015 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of the request to be whether the Cabinet Office has complied with sections 1 and 10 of the Act.
9. On 23 June 2015 the Commissioner contacted the Cabinet Office to advise it of receipt of this complaint, the request to which it refers and the date by which section 10 of the Act obliged it to respond. He asked the Cabinet Office to confirm whether a response which meets the Cabinet Office's obligations under section 1 has been provided. The Commissioner did not receive a response to that communication.

Reasons for decision

10. Section 1(1) of the Act states that upon receipt of a request a public authority must confirm or deny whether information is held, and if that information is held it must be communicated to the requester.
11. Section 10(1) of the Act states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
12. The Cabinet Office is obliged under section 1(1) of the Act to confirm or deny whether recorded information relevant to the complainant's request is held, unless there is an exemption which prohibits it from

doing so (in which case a refusal notice must be issued). As the Cabinet Office has not responded to the complainant it has breached section 1(1) of the Act.

13. The Cabinet Office acknowledged receipt of the complainant's request on 2 March 2015. The twentieth working day after this was 30 March 2015. As the Cabinet Office did not issue a response by this date it has breached section 10(1) of the Act.
14. As it has still not responded, the Commissioner requires the Cabinet Office to issue a response to the complainant under the Act.

Right of appeal

15. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

16. 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.
17. 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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SK9 5AF