

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 March 2016

Public Authority: The Foreign and Commonwealth Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant submitted a request to the Foreign and Commonwealth Office ('the FCO') for copies of correspondence between the British Embassy in Riyadh and the Foreign Office in London. The FCO confirmed that it holds information relevant to the request. It repeatedly advised the complainant that it required further time to consider the public interest test. To date, the FCO has failed to provide the complainant with a substantive response. By failing to do so, the Commissioner has concluded that the FCO breached section 17(3) of the FOIA.
2. The Commissioner requires the FCO to take the following steps to ensure compliance with the legislation:
 - Provide the complainant with a substantive response to her information request. If the FCO decides to withhold any information then the complainant should be provided with a refusal notice giving a full explanation as to why the information will not be disclosed, including details of any public interest test consideration.
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 30 September 2015, the complainant wrote to the FCO and requested information in the following terms:

"Copies of all communications between the British Embassy in Riyadh and the Foreign Office in London relating to the contract proposal for the MoJ to provide training services to the prison service of Saudi Arabia, under the Just Solutions International (JSI) brand, since 1st January 2014."

5. The FCO contacted the complainant on 29 October 2015 advising her that it had yet to reach a decision on the balance of the public interest test with respect to the exemption at section 27 – international relations.
6. The FCO subsequently sent 4 further, almost identical, letters to the complainant in consecutive months. To date no substantive response has been received.

Scope of the case

7. The complainant contacted the Commissioner on 3 February 2016 to complain about the way her request for information had been handled. She explained that since making her request she had received numerous letters referencing the public interest test and the requirement for further time.

Reasons for decision

8. Section 1(1) of the FOIA provides that any person making a request for information 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."

9. Section 10(1) of the FOIA provides 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.
10. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of time to consider the

balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by a maximum of a further 20 working days, which would allow a public authority 40 working days in total.

11. In the circumstances of this case, although the FCO has repeatedly informed the complainant of the delay while the public interest is considered, the total time taken has well exceeded 40 working days. Even if exceptional circumstances may prevail, the Commissioner's position is that no public authority should still be deliberating about a substantive response five months from the date of the request. As the Commissioner does not consider this to be a reasonable timescale, he finds the FCO has not complied with section 17(3).

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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

Alexander Ganotis
Group Manager
Information Commissioner's Office
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Water Lane
Wilmslow
Cheshire
SK9 5AF