

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2016

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information relating to Immigration Removal Centres. The Home Office failed to respond to this request in accordance with the FOIA and in so doing breached sections 1(1) and 10(1) of the FOIA. It is now required to issue a fresh response to the request that complies with the FOIA.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the complainant that is compliant with the FOIA.
3. The Home Office 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 7 December 2015 the complainant wrote to the Home Office and made the following information request, which references a previous information request:

"Assuming the data tables and key sent to me in Response 1) were not already in your system in the exact form in which they were sent to

me, but were compiled by one of your information officers based on other original documentation, I would like to see this original documentation.

Given that each centre manager is required to send monthly reports which contain details concerning detainees held under Rule 40 and Rule 42, I am assuming that the officer who compiled Response 1 based their response on these reports. I am therefore requesting to see these reports, and/or any other reports or documentation that the officer who compiled Response 1 based its content on. In particular I would like to see the report made by the managers of Yarl's Wood for the month of March 2014.

If the document you sent to me in Response 1 was not compiled by one of your officers but was an exact copy of what was already in your system, I would like to see any and all of the information on which you are basing your claim that Response 2) is correct and Response 1) is incorrect."

5. The Home Office responded on 5 February 2016. Although this response stated that the complainant's request had been handled under the FOIA, it failed to address the requests for recorded information. The complainant responded on the same date and requested an internal review. The only reply that the complainant received, other than an acknowledgement, was on 9 March 2016 when the 5 February 2016 reply was re-sent.

Scope of the case

6. The complainant contacted the Commissioner on 28 March 2016 to complain about the failure by the Home Office to properly address her information request.
7. On 11 May 2016 the Commissioner contacted the Home Office and asked it to either provide a fresh response to the complainant's request that complied with the FOIA, or else respond to the ICO explaining why it did not believe that action was necessary. The Home Office responded on 15 June 2016 stating that it accepted that its earlier response had not been compliant with the FOIA and confirming that a fresh response would be sent to the complainant. It stated that it would take this action by 30 June 2016, but by the date of this notice had not issued a fresh response.

Reasons for decision

Sections 1 and 10

8. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
9. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond in line with the FOIA to the request within 20 working days. The Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

10. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Home Office to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

11. 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>

12. 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.
13. 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

Ben Tomes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF