

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 30 January 2017

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

#### Decision (including any steps ordered)

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1. The complainant requested information from the Home Office for correspondence relating to an immigration raid. By the date of this notice, the Home Office has yet to provide a substantive response to this request.
2. The Commissioner's decision is that the Home Office breached sections 1 and 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
  - Issue a response to the request set out in paragraph 5 under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
4. 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 Act and may be dealt with as a contempt of court.

#### Request and response

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5. On 1 August 2016 the complainant wrote to the Home Office and requested information in the following terms:

*"I would be very grateful if you could provide me with all the correspondence between Home Office officials and representatives of the Byron hamburger chain, specifically in relation to an immigration raid that took place on 4 July."*

6. The Home Office acknowledged receipt of the request the same day and said it would respond by 31 August 2016 (ie within 20 working days of receipt of the request).
7. In the absence of a response, the complainant wrote to the Home Office on 31 August 2016. It apologised for the delay and told her it was considering applying section 31 of FOIA (law enforcement) and that, in accordance with the timeline permitted by the FOIA, it needed to extend the response time by a further 20 working days in order to consider the associated public interest test. It said it would now respond by 28 September 2016.
8. The complainant wrote again to the Home Office on 3 October 2016 and was advised *"I regret that we are unable to send you a full response to your request within the time frame required by the Act, this is due to internal delays with the FOI process."*
9. On 18 October 2016 the complainant requested an internal review of the handling of her request. The Home Office acknowledged receipt and said it would provide its internal review by 15 November 2016 (within the recommended 20 working days).
10. The Home Office failed to meet this deadline; the complainant reminded the Home Office of the need to response on 15 and 22 November 2016, but received no reply.
11. To date, the Home Office has not provided a substantive response to the request or an internal review of the handling of the request.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 21 November 2016 to complain about the way her request for information had been handled.
13. The Commissioner contacted the Home Office on 9 January 2017 to query the non-response; the Home Office replied on 10 January 2017 and advised that its response had been drafted but was awaiting clearance. It did not give any indication that the response would be issued imminently and suggested that the Commissioner *"may wish to proceed to a decision notice."*

14. No substantive response to the request had been provided by the date of this notice.

### **Reasons for decision**

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15. 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.
16. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
17. 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. From the information provided to the Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.

### *Conclusion*

18. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 3 above the Home Office is now required to respond to the request of 1 August 2016 in accordance with the FOIA.

### **Other matters**

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19. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case, which is currently over six months. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

## Right of appeal

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20. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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** .....

**Samantha Bracegirdle**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**