

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 September 2017

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

Decision (including any steps ordered)

1. The complainant has requested information from the Home Office regarding deaths of immigration detainees in UK detention centres.
2. The Commissioner's decision is that the Home Office has breached section 10(3) of the FOIA as it has failed to give a substantive response to this request within a reasonable timeframe.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Home Office must issue a response to the request in accordance with its obligations under the FOIA.
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 14 March 2017, the complainant wrote to the Home Office and requested information in the following terms:

"I would like to request the following information between the period 2010-2017:

1. *The number of recorded deaths of immigration detainees in UK detention centres from 2010-2017*
 2. *The names of the detention centres that recorded the respective deaths.*
 3. *The nationalities of the detainees whose deaths were recorded.*
 4. *The cause of deaths as recorded.*
 5. *In case of self-inflicted deaths, which of the detainees were under supervision prior to their death?*
 6. *Immigration status/cause of detention of immigrant who died.*
 7. *Length of detention of detainees whose deaths were self-inflicted.*
 8. *Actions taken following the recorded deaths, if any."*
6. The Home Office acknowledged the request on 15 March 2017. It stated that it aimed to send a full response by 12 April 2017.
 7. On the 12 April 2017 the Home office contacted the complainant and informed them that *"some of the information you have requested is being considered under the exemption in section 31(1) (f) of the Act, which relates to law enforcement and the maintenance of security and good order in prisons or other detention facilities. This is a qualified exemption and to consider the public interest test fully we need to extend the 20 working day response period. We now aim to let you have a full response by 10 May."*

Scope of the case

8. The complainant contacted the Commissioner on 15 May 2017 to complain about the way her request for information had been handled.
 9. Following receipt of the complaint the Commissioner contacted the Home Office, reminding it of its responsibilities and asking it to respond to the complainant within 10 working days.
 10. Despite this intervention the Home Office has failed to respond to the complainant.
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Reasons for decision

11. Section 10(1) of the FOIA states that an authority must comply with section 1(1) of the FOIA ‘...promptly and in any event not later than the twentieth working day following the date of receipt’. However, section 10(3) enables an authority to extend the 20 working day limit up to a ‘reasonable’ time in any case where the public interest test attached to the application of a qualified exemption is being considered.
12. The FOIA does not define what constitutes a ‘reasonable’ extension of time. It is the view of the Commissioner however that an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days.
13. The Commissioner has found that the time taken to produce a substantive response to the request considerably exceeds the 40 working days and is therefore not reasonable. She has therefore decided that the Home Office has breached section 10(3) of the FOIA.

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: 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

Alun Johnson
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