

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2017

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

Decision (including any steps ordered)

1. The complainant requested information about FOI requests that have required ministerial approval. The Home Office failed to respond substantively to this request and the Commissioner's decision is that in so doing the Home Office breached sections 1(1) and 10(1) of the FOIA.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Provide a substantive response to the complainant's request.
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 8 May 2017 the complainant wrote to the Home Office and requested information in the following terms:

"Could you please give me the total number of FOI requests that have required ministerial approval before being released since 2014."
5. The Home Office had not responded substantively to this request by the date of this notice.

Scope of the case

6. The complainant contacted the Commissioner on 16 November 2017 to complain about the failure by the Home Office to respond to his information request.
7. The Commissioner contacted the Home Office on 30 November 2017 and asked it to respond substantively to the request within a maximum of a further 10 working days. The Home Office did not respond.

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 substantively to the request within 20 working days. At paragraph 2 above 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