

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 September 2020

Public Authority: Cabinet Office

Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information from the Cabinet Office about the content of all records relating to a specified subject. By the date of this notice the Cabinet Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the Cabinet Office has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Cabinet Office to take the following step to ensure compliance with the legislation.
 - The Cabinet Office must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Cabinet Office must take this step 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 6 December 2019, the complainant wrote to the Cabinet Office and requested information in the following terms:

"Please carry out the following electronic searches of Cabinet Office records and send me copies of the full content of all records that are located in response to each search.

*1. Denning *AND* archives*

*2. Denning *AND* TNA*

*3. Denning *AND* ACNRA*

Please note:

a) I am happy for the searches to be limited to records created since 1 Jan 2014.

b) I am happy for the searches to be limited to searches of the Apollo system."

6. The Cabinet Office acknowledged the request on 9 December 2019. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 21 July 2020 to complain about the Cabinet Office's failure to respond to their request.
8. The Commissioner has considered whether the Cabinet Office has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states 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."

10. 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*".
11. On 20 August 2020 the Commissioner wrote to the Cabinet Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days. The Commissioner asked the Cabinet Office to inform her if there were any specific reasons relating to the Covid-19 pandemic which would prevent it from providing a response to the request. The Cabinet Office did not reply to the Commissioner's correspondence.
12. From the evidence provided to the Commissioner in this case, it is clear that the Cabinet Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Cabinet Office has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Other matters

13. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.
14. The Commissioner notes, however, that a response to a request for information made on 6 December 2019 was due well before the coronavirus disruption began. This has been a necessary consideration in her decision to issue this notice.

Right of appeal

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

16. 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.
17. 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF