

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 October 2020

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

### Decision (including any steps ordered)

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1. The complainant requested the number of meetings that the Home Secretary had had with the Prime Minister. The Home Office had yet to respond because it had not completed its public interest considerations at the date of this notice.
2. The Commissioner's decision is that the Home Office has failed to complete its considerations on the balance of the public interest within a reasonable timeframe and has therefore breached section 17(3) of the FOIA.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
  - Either confirm or deny that information is held or; provide a copy of any information that is held or; issue a refusal notice that complies with section 17 of the FOIA.
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 13 July 2020, the complainant wrote to the Home Office via the [whatdotheyknow.com](http://whatdotheyknow.com) website and requested information in the following terms:

*"I am asking how many times has the Home Secretary Rt Hon Priti Patel met with the PM since the 23 March 2020."*

6. The Home Office acknowledged the request on 14 July 2020.
7. On 12 July 2020, the Home Office sent a further letter to the complainant. It did not explicitly confirm or deny holding information within the scope of the request but it did note that:

*"The information which you have requested is being considered under the exemption in Section 35 of the FOIA, which relates to operation of a Ministerial private office."*
8. The Home Office issued a further, brief, holding response to the complainant's queries but had yet to issue a substantive response at the date of this notice.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 25 September 2020 to complain about the way his request for information had been handled.
10. The Commissioner contacted the Home Office on 8 October 2020. In line with her usual practice, she asked it to complete its public interest considerations and respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
11. Given that the request remains outstanding, despite her intervention, the Commissioner now considers that a decision notice is appropriate in this case.
12. The Commissioner considers that the scope of her decision notice is to consider whether or not the Home Office has had a reasonable amount of time in which to consider the balance of the public interest.

### **Reasons for decision**

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13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "promptly and in any event not later than the twentieth working day following the date of receipt."
14. Section 10(3) of the Act states that, where a public authority is considering the balance of public interest, it can extend the 20 working day deadline "until such time as is reasonable in the circumstances."

15. Under Section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days, which would allow a public authority 40 working days in total. The Commissioner considers that any extension beyond 40 working days should be exceptional and requires the public authority to justify the time taken fully.
16. The Home Office has not provided any justification as to why its public interest considerations should have taken so long, nor has it indicated when these are likely to have been completed.
17. The Commissioner is, of course, mindful of the ongoing effects of the pandemic and that staff across the public sector are working remotely – meaning that even the simplest of processes can take much longer than usual.
18. However, the Commissioner also notes that the Home Office has had, at the date of this notice, over three months in which to respond to a relatively uncomplicated request. In the absence of any significant and compelling reasoning from the Home Office, she considers that three months should be more than adequate.
19. The Commissioner therefore finds that the Home Office has failed to complete its public interest considerations within a reasonable timeframe and has thus breached section 17(3) of the FOIA.

## **Other matters**

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20. When a public authority requires additional time to consider the balance of the public interest in withholding relevant information, it must still issue a clear and unambiguous statement that relevant information is held. When a public authority requires additional time to consider the balance of the public interest in issuing a confirmation or a denial that information is held, it must issue a clear and unambiguous statement that it is considering the balance of the public interest in confirming (or denying) that relevant information is held.

## Right of appeal

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21. 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](mailto:grc@justice.gov.uk)

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

22. 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.
23. 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** .....

**Phillip Angell**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**