

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 November 2021

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested information from the Health and Safety Executive ("the HSE") about open circuit PEN conductor faults. By the date of this notice the HSE had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the HSE 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 HSE to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The HSE 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 29 August 2021, the complainant wrote to the HSE and requested information in the following terms:

"I would like to know, for the last 3 years –

- How many cases of open circuit PEN conductor faults have been reported under ESQCR*
- Of these, how many have resulted in death*
- How many have resulted in injury or electric shock*

If there are any associated statistics which you think may be relevant, please advise me as, being an amateur, it is not easy for me to find what information you collect."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 22 September 2021 to complain about the failure by the HSE to respond to his request.
8. The Commissioner has considered whether the HSE 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 19 October 2021, the Commissioner wrote to the HSE, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.

12. Despite this intervention the HSE has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the HSE did not deal with the request for information in accordance with the FOIA. The Commissioner finds the HSE 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.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF