

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 March 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 (HSE) regarding cases of occupational exposures to Covid-19 and work-related deaths due to exposure to Covid-19 which have been reported to the HSE under the RIDDOR. The HSE had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that the HSE failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the HSE to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 4 January 2021, the complainant wrote to the HSE via two separate emails and requested information in the following terms:

"Under the Freedom of Information Act, and with reference to the HSE's publication titled 'RIDDOR reporting of COVID-19', I would be grateful if you could provide me with the below requested information.

To the latest date for which figures are readily available, how many cases of occupational exposure to a biological agent have been reported to the Health and Safety Executive under RIDDOR that specified COVID-19 as the relevant disease, broken down by:*

- (a) Industry at the 'main activity' level;*
- (b) Country; and*
- (c) Local authority.*

Please note that I am only seeking separate breakdowns for each part of the request – ie., I am not seeking a breakdown by both industry and local authority.

This request is not intended to be inclusive of figures on occupational deaths that are linked to COVID-19, which are requested separately.

If you require clarification of any aspect of this request then please do not hesitate to contact me.

** If the HSE has a standard process for identifying COVID-19 cases in the dataset then I would be grateful if this could be used. If not, then please could a keyword search be applied that includes the terms 'covid', 'COVID-19', 'coronavirus', and 'SARS-CoV-2.' "*

And:

"Under the Freedom of Information Act, and with reference to the HSE's publication titled 'RIDDOR reporting of COVID-19', I would be grateful if you could provide me with the below requested information.

To the latest date for which figures are readily available, how many cases of work-related deaths due to exposure to a biological agent have been reported to the Health and Safety Executive under

RIDDOR that specified COVID-19 as the relevant disease, broken down by:*

- (a) Industry at the 'main activity' level;*
- (b) Country; and*
- (c) Local authority.*

Please note that I am only seeking separate breakdowns for each part of the request – ie., I am not seeking a breakdown by both industry and local authority.

If you require clarification of any aspect of this request then please do not hesitate to contact me.

** If the HSE has a standard process for identifying COVID-19 cases in the dataset then I would be grateful if this could be used. If not, then please could a keyword search be applied that includes the terms 'covid', 'COVID-19', 'coronavirus', and 'SARS-CoV-2.' "*

6. The HSE failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 19 February 2021 to complain about the failure, by the HSE, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the HSE on 8 March 2021 to highlight the outstanding response. She requested that the HSE respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The scope of this notice and the following analysis is to consider whether the HSE has complied with section 10 of the FOIA.

Reasons for decision

10. 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.*

11. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) *is in writing,*
- (b) *states the name of the applicant and an address for correspondence, and*
- (c) *describes the information requested.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

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. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the HSE has breached section 10 of the FOIA.

Other matters

15. 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.

Right of appeal

16. 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

17. 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.
18. 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