

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 July 2022

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the UK Visas and Immigration Service (Home Office) about a review report concerning accommodation for asylum seekers at Penally Camp in Tenby and Napier Barracks in Kent. By the date of this notice, the Home Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the Home Office has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires the Home Office to take the following step to ensure compliance with the legislation.
  - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information, if held, or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of FOIA.
4. The Home 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 6 March 2022, the complainant made the following request for information to the UK Visas and Immigration Service (Home Office):

"I wish to receive a copy of the report including the findings and recommendations of a 'deep dive' review of accommodation for asylum seekers placed by the Home Office at Penally Camp (and Napier Barracks in Kent) which was undertaken at the request of the Home Office by Human Applications health and safety/risk management consultancy in or around September 2020 – October 2020, with a specific focus upon compliance with Public Health guidelines to prevent the transmission of COVID-19.

For ease of reference the information I am requesting is in relation to the information detailed in the attached article."

6. On 6 April 2022, the Home Office wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 36(2)(c) of FOIA.
7. On 4 June 2022, the Home Office wrote to the complainant again to apologise for the delay in providing its response.

## Scope of the case

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8. The complainant contacted the Commissioner on 23 June 2022 to complain about the delay in the Home Office's consideration of the public interest test.
9. On 28 June 2022 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
10. The Commissioner has considered whether the Home Office has complied with its obligations in relation to section 17 of FOIA.

## Reasons for decision

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11. Section 1(1) of 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."

12. Section 10(1) of 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".

13. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.

14. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that "it is best practice for an extension to be for no more than a further 20 working days".<sup>1</sup> This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.

15. In this case, the total time taken by the Home Office has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the Home Office has not complied with section 17(3).

16. The Home Office is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

## Right of appeal

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

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

18. 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.
19. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**