

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 February 2022

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

Decision (including any steps ordered)

1. The complainant requested information from the Home Office about modern slavery referrals. By the date of this notice the Home Office had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the Home 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 Home Office to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with 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

5. On 20 July 2021, the complainant wrote to the Home Office and requested information in the following terms:

"Dear Sir or Madam,

This is a request under the Freedom of Information Act.

The New Plan for Immigration policy statement (updated on 18 April 2021) referred to an "alarming increase" in the number of people who pose a national security risk to the UK seeking modern slavery referrals in order to avoid immigration detention and frustrate their deportation.

It adds that the lack of a clear domestic policy on grounds of public order has resulted in "individuals who have committed acts of serious criminality or who may pose a threat to UK national security evading detention and removal from the UK."

On 18 July, it was reported that the Home Office's modern slavery unit could not provide data on national security threats referred to the modern slavery system. However, [name redacted] again referred to the "alarming increase" during the Bill's second reading yesterday

[name redacted] noted that a loophole is being closed which prevented the defence of some immigration decisions on national security grounds.

In light of the above matters of significant public interest, please provide the following:

1. The number of people who pose a national security risk to the UK who sought modern slavery referrals in order to avoid immigration detention and frustrate their removal from the UK, including the figures underpinning the "alarming increase".
2. The number of individuals who may pose a threat to UK national security evading detention and removal from the UK due to the lack of a clear and domestic policy on grounds of public order or otherwise.
3. The number of immigration decision whose defence was prevented on national security grounds.

Please limit this to data in each of the past five years or, if that exceeds the cost threshold, the latest year for which data are available."

6. On 17 August 2021 the Home Office contacted the complainant asking them to clarify question three. The complainant responded the same day, and again on 6 October 2021, to provide clarification. The request was then split into two and the clarified request given a new reference number. A response to the clarified request was issued on 10 January 2022. This decision notice relates to questions one and two of the original information request which remain outstanding.

Scope of the case

7. The complainant contacted the Commissioner on 10 December 2021 to complain about the failure by the Home Office to respond to his request.
8. The Commissioner has considered whether the Council 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 22 December 2021 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.
12. The Home Office replied to the Commissioner and provided evidence that it had replied to question three of the request. On 11 January 2022 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the two questions not addressed by its original response within 10 working days
13. From the evidence provided to the Commissioner in this case, it is clear that the Home Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Home 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.

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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
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