

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 October 2023

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

Decision (including any steps ordered)

1. The complainant has requested information about illegal migrants. The Home Office stated that it does not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the Home Office does not hold information of the description set out in the request.
3. The Commissioner does not require the Home Office to take any further steps.

Request and response

4. On 15 February 2023, the complainant wrote to the Home Office and requested information in the following terms:

"Please inform me exactly who made the decision for the Border Force to bring into our country foreign criminals from small boats crossing the Channel, rather than guarding our border by keeping them out."
5. The Home Office responded on 15 March 2023. It stated that it does not hold the requested information.

6. Following an internal review the Home Office wrote to the complainant on 4 August 2023. It reiterated that it does not hold any information within the scope of the request.

Reasons for decision

Section 1 – general right of access to information

7. Section 1(1) of FOIA provides 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.
8. FOIA provides a right of access to information which is held by a public authority in recorded form at the time when it receives the request. This does not extend to the right to ask questions, or to seek explanations, opinions or clarifications, unless that information is already held by the public authority in recorded form. Public authorities are not obliged to create new recorded information in order to comply with a request.
9. The Commissioner is satisfied that the Home Office has not “made the decision for the Border Force to bring into our country foreign criminals from small boats crossing the Channel, rather than guarding our border by keeping them out”. Therefore, the Commissioner is further satisfied that the Home Office does not hold any recorded information relating to any person(s) being responsible for making such a decision.
10. The Commissioner finds that, on the balance of probabilities, the Home Office does not hold any information within the scope of the request. The Commissioner does not require the Home Office to take any further steps on this matter.

Right of appeal

11. 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

12. 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.
13. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF