

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 26 September 2011

Public Authority: Office of the First Minister and deputy First Minister

Address: Castle Buildings
Stormont Estate
Belfast
BT4 3SR

Decision (including any steps ordered)

1. The complainant has requested information relating to Belfast Islamic Centre from the Office of the First Minister and deputy First Minister (OFMDFM).
2. The Commissioner's decision is that OFMDFM has failed to respond to part of the request within the statutory timescale.
3. The Commissioner requires OFMDFM to take the following steps to ensure compliance with the legislation:
 - Respond to the outstanding part of the request, either by providing the requested information or by issuing a refusal notice.
4. OFMDFM 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 14 July 2011, the complainant wrote to OFMDFM to request the following information:

All details held about the advice commissioned by the department from Williamson Consulting in 2008-2009 in relation to the Belfast Islamic Centre;

All other documentation held by the department since 2007 about the Belfast Islamic Centre.

6. On 18 July 2011 OFMDFM telephoned the complainant to clarify his request. The complainant agreed to refine the second part of the request to:

"As regards the second, wider aspect of the request about the Belfast Islamic Centre, could I change my request to just focus on the single year for which the most documentation is held?"
7. On 19 July 2011 OFMDFM advised the complainant that it did not hold information in relation to the first part of his request. OFMDFM further advised the complainant the second part of his request, although refined, would still require "significant work". The complainant agreed to discuss the request with an official within the relevant business area of OFMDFM. The complainant told the Commissioner that following this discussion he understood that information had been collated ready to be disclosed to him.
8. The complainant did not receive any further correspondence from OFMDFM in relation to the second part of his request.

Scope of the case

9. On 18 August 2011 the complainant contacted the Commissioner to complain that OFMDFM had failed to respond to the second part of his request. As OFMDFM had not responded there was no requirement for the complainant to request an internal review before approaching the Commissioner.
10. The Commissioner contacted OFMDFM on 26 August 2011 to remind it of its obligations under the Act. However, at the time of issuing this Decision Notice OFMDFM had still not provided a substantive response to the complainant.

Reasons for decision

11. Section 1(1)(a) of the Act requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.

12. 10(1) states that the public authority must comply with section 1 promptly and in any event no later than twenty working days after the date of receipt of the request.
13. Despite the Commissioner's intervention OFMDFM has still failed to either disclose the requested information falling within the (refined) second part of the request or provide a valid refusal notice. The Commissioner therefore finds OFMDFM in breach of section 1(1) and section 10(1) of the Act.

Other matters

14. Prior to this decision the Commissioner has issued three Decision Notices in the past six months which record OFMDFM's failure to comply with the Act in respect of timescales for response. The Commissioner expects this pattern of non-compliance to be addressed by OFMDFM.

Right of appeal

15. 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: 0116 249 4253
Email: informationtribunal@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

16. 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.
17. 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

Alexander Ganotis
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