

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2012

Public Authority: Foreign and Commonwealth Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information relating to the Foreign and Commonwealth Office's retention policy. The Foreign and Commonwealth Office (FCO) failed to provide a substantive response to the request.
2. The Information Commissioner's decision is that, therefore, the FCO breached section 10(1) of the Act.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a substantive response to the complainant either providing the information or issuing a valid refusal notice compliant with section 17 of the Act.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information 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 13 June 2011, the complainant wrote to the FCO and requested information in the following terms:

"Under the response FOI 0124/10, it is stated, 'please note although some posts have retained information relating to projects completed prior to 2008, many posts would have destroyed these files in line with the FCOs policy on retention of documents.' Can you please clarify what is the document retention policy of the FCO and when this was changed and what was the previous policy? Furthermore, is this in line with overall government policy on document retention and if not why has the FCO been permitted to deviate? I understand it is a legal requirement for Limited Liability Companies to retain documents for a period of 6 years and one would expect the same would apply to government departments particularly when it concerns the use of public funds."

6. The FCO, to date, has not responded to the complainant.

Scope of the case

7. The complainant contacted the Information Commissioner to complain about the way her request for information had been handled. She was dissatisfied with the lack of a substantive response from the FCO.

Reasons for decision

8. Section 10 of FOIA states that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

9. The Information Commissioner wrote to the FCO on 9 December 2011 to make it aware of the complaint and asked the FCO to respond as soon as possible to the complainant.
10. The complainant confirmed to the Information Commissioner on 18 January 2012 that she had still not received a response from the FCO. Therefore, the Information Commissioner finds that the FCO has breached section 10(1) of the Act.

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: 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

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

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**