

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 October 2012

**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 about communications and statements relating to delays at Heathrow Airport. Whilst receipt of the request was eventually acknowledged by the Home Office, no substantive response to the request has been provided to the complainant. The Information Commissioner's decision is that the Home Office did not deal with the request for information in accordance with FOIA. It breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.
2. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - confirm or deny whether the requested information is held in respect of the request, to comply with section 1(1)(a);
  - if information is held in respect of the request, either provide the information to comply with section 1(1)(b) (addressing the complainant's request for the response to be provided in electronic form), or withhold the information by issuing a valid refusal notice under section 17(1) of FOIA.
3. 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 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

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4. On 30 April 2012, the complainant wrote to the Home Office and requested information in the following terms:

*"Please can you confirm or otherwise if the UK Border Agency director of operations at Heathrow, Marc Owen, has said that leaflets produced by BAA at Heathrow airport were 'inappropriate' and whether Mr Owen threatened to 'escalate' the matter with ministers.*

*Did Mr Owen also write: 'The leaflet...is both inflammatory and likely to increase tensions in arrivals halls especially in the current atmosphere.'*

*'It is inappropriate in that it is not for you to display how to complain on our behalf.'*

*'Please refrain from handing out [the leaflets] or I will escalate [the matter] with ministers who are likely to take a very dim view.'*

*'I know there are copies in the hall and your troops are ready with them.'*

*It was also reported that Mr Owen told BAA to stop passengers taking pictures of the queues in the arrivals halls. Can you confirm the veracity of this or otherwise?*

*In fact please can you forward all relevant emails from Mr Owen to the BAA regarding the recent delays at Heathrow airports as an FOI request?"*

5. In the absence of any response the complainant contacted the Home Office to query the whereabouts of its response prior to him complaining to the Information Commissioner.
6. The Home Office replied on 18 May 2012 explaining that the request had not been forwarded to the right department until that day and apologised for the oversight.
7. On 6 June 2012 the complainant wrote further to the Home Office highlighting that 10 working days had now elapsed since its acknowledgement and the response was still outstanding.

8. The Home Office replied on 13 June 2012 apologising for the continued delay and assured the complainant it was *“working on your response proactively.”*
9. The complainant contacted the Home Office again on 11 July 2012 asking for a response, but to date has not received any response to his request.

### **Scope of the case**

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10. The complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He specifically asked the Information Commissioner to consider the fact that no substantive response had been provided.
11. On 15 October 2012 the Information Commissioner contacted the complainant to ascertain whether he had now received the Home Office's response and he confirmed it was still outstanding.

### **Reasons for decision**

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12. Section 8(1) of FOIA states that requests for information should be in writing, should bear the name and address of the applicant and describe the information requested. The Information Commissioner considers that the request in this case can be defined as such and therefore constituted a valid request under FOIA for recorded information.
13. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
14. From the information provided to the Information Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe.

### *Conclusion*

The Information Commissioner's decision is that the Home Office did not deal with the request for information in accordance with FOIA. The Home Office breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.

## Right of appeal

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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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://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** .....

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