

## Freedom of Information Act 2000

### Decision notice

**Date:** 23 September 2013

**Public Authority:** The Cabinet Office

**Address:** 70 Whitehall  
London  
SW1A 2AS

#### Decision (including any steps ordered)

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1. The complainant requested information relating to staff performance reviews carried out by the Cabinet Office. The Commissioner's decision is that the Cabinet Office has not responded to the request and so has breached section 1 and 10 of the Freedom of Information Act (the Act).
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a response in compliance with section 1 of the FOIA or issue a refusal notice in accordance with section 17.
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 21 November 2012, the complainant wrote to the Cabinet Office and requested information in the following terms:

*"I was not aware of any time limit ion [sic] those performance reviews and would be grateful if you could provide me with the relevant documents on that please."*

5. On 30 November 2012 the complainant sent a further request to the Cabinet Office. This request was answered on 4 February 2013. The

complainant then asked for an internal review, which was issued by the Cabinet Office on 3 April 2013.

6. On 4 April 2013 the complainant responded to the internal review and made explicit reference to the fact that his request of 21 November 2012 had not yet been responded to. To date, the Cabinet Office has not responded to the request in a way which meets its obligations under the Act.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 31 May 2013 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of the case to be whether the Cabinet Office has issued a response to the complainant within the stipulated time limit.

### **Reasons for decision**

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9. Section 1 of the Act states that an individual who asks for information is entitled to be informed whether the information is held, and – providing no exemptions apply – if the information is held to have the information communicated to them.
10. Section 10 of the Act states that a public authority must respond to a request promptly or “not later than the twentieth working day following the date of receipt”.
11. The complainant sent the request on 21 November 2012. The request was in amongst a number of other statements made to a member of Cabinet Office staff, and there was no direct mention to it being a request under the Act. As such, it might be understandable why the request was not initially noticed by the Cabinet Office as an freedom of information request. However, the Commissioner wishes to make clear that the request was received by the Cabinet Office and does meet the definition of a request which is outlined in section 8 of the Act, so the complaint is valid.
12. Regardless of whether the Cabinet Office did not initially determine that the request was being made under the Act, the complainant did make it clear in his email of 4 April 2013 that he considered it a request and wanted to receive a response. This email was sent to the Cabinet Office’s Head of Knowledge and Information Management. The email has a read receipt so the Commissioner is satisfied that the request has

been received by the Cabinet Office and it has been made clear that it is a request under the Act.

13. As the Cabinet Office has not provided a response it has breached section 1 of the Act. As a response was not provided within 20 working days it has breached section 10 of the Act. The Commissioner requires the Cabinet Office to issue a response promptly.

## Right of appeal

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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: 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)

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 .....**

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**