

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 September 2013

**Public Authority:** Cabinet Office

**Address:** 70 Whitehall

London

SW1A 2AS

#### **Decision (including any steps ordered)**

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1. The complainant submitted a request for information about the total spend on the Cabinet Office's Behavioural Insights Team. By the date of this notice the Cabinet Office had yet to provide a substantive response to this request and the Information Commissioner's decision is that, in so doing, the Cabinet Office has breached the requirements of sections 10(1) and 17(3) of the FOIA.
2. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
  - Provide to the complainant a full response to his information request. The requested information should either be disclosed, or the complainant should be provided with a refusal notice giving a full explanation as to why the information will not be disclosed, including any public interest considerations.
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 14 May 2013 the complainant wrote to the Cabinet Office and requested information in the following terms:

- "1. *Total spent on the cabinet Office Behavioural Insights Team since it was established in 2010 to date:*

*If available, a breakdown of the following elements:*

*Total spend on salaries and related taxes, pension contributions etc. (including consultants/freelancers)*

*Total overheads including office costs, IT costs etc.*

*Total direct delivery costs of projects*

*Any expense other than staff time in developing the BIT's 'three part methodology'*

*Total costs of support services received from outside the BIT team itself*

*Any costs involved in external facing (ie outside govt.) activities (eg time spent speaking at external events or talking to the media, expenses involved in publications, any time spent by Cabinet Office communications team etc.)*

*Costs and/or time involved to date in business development activity and preparing to launch the BIT as a joint venture*

2. *Total income to date from consulting projects outside the Cabinet Office programme of work (broken down by project if possible)*
3. *Has the Cabinet Office sought state aid advice or approval in advance of allowing the BIT to compete for projects outside the Cabinet Office programme of work? If so, what was the outcome?"*
5. The Cabinet Office responded on 12 June 2013, which just exceeds the 20 working days limit prescribed by FOIA. It stated:
- "I can confirm that the Cabinet Office holds information relevant to your request but I must advise you that I must extend the time limit for responding to your request....Information you have requested is exempt under Section 43 of the Act, which relates to information where disclosure would be likely to prejudice the commercial interests of any person...I hope to let you have a response by 10 July 2013. If I can reply before that date, I shall do so. If I need more time to consider the balance of the public interest, I shall write again to let you know."*
6. The Cabinet Office wrote again to the complainant on 10 July 2013 extending the deadline for its public interest considerations to 7 August 2013.
7. On 7 August 2013 the Cabinet Office contacted the complainant again to further extend the deadline to 5 September 2013. The complainant did not receive a substantive response by that date.

## Scope of the case

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8. The complainant contacted the Commissioner on 28 August 2013 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider the fact that no substantive response had been provided.
9. The Commissioner contacted the complainant on 11 September 2013 to ascertain whether the Cabinet Office had met its own extended deadline of 5 September 2013. The complainant confirmed that no substantive response to the request had been provided.

## Reasons for decision

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10. Section 1(1) of the 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."*

11. Section 10(1) of the FOIA provides that 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.
12. Under section 17(3) a public authority can, where it is citing a qualified exemption, extend the time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by a maximum of a further 20 working days, which would allow a public authority 40 working days in total.
13. In this case, whilst the complainant has been sent three responses informing him of a delay while the public interest is considered, the total time taken by the Cabinet Office has well exceeded 40 working days. As the Commissioner does not consider this to be a reasonable timescale he finds that the Cabinet Office has not complied with section 17(3). It follows that the Cabinet Office has breached section 10(1) in relation to its handling of this request.

## **Other matters**

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14. As well as finding above that the Cabinet Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Cabinet Office should evidence from other cases suggest that there are systemic issues within the Cabinet Office that are causing delays.

**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](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**