

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 July 2014

Public Authority: Ministry of Defence
Address: Main Building
Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant submitted a request to the Ministry of Defence (MOD) for copies of all materials used in the 'Managing Defence in the Wider Security Context' course. The MOD initially withheld this information on the basis of section 43(2) of FOIA. The complainant requested an internal review of this decision and, after a significant delay, the MOD informed him of the outcome of the review and at that point provided him with the information he had requested. By failing to disclose this information within 20 working days of the request the Commissioner has concluded that the MOD breached section 10(1) of FOIA.

Request and response

2. The complainant submitted the following request to the MOD on 18 September 2013:

'I am writing to request copies of all course documents and materials used in the Managing Defence in the Wider Security Context course.'

3. The MOD responded on 9 October 2013 and confirmed that it held the requested information but considered it to be exempt from disclosure on the basis of section 43(2) of the FOIA because its disclosure would prejudice the commercial interests of both the MOD and Cranfield University.

4. The complainant contacted the MOD on 30 October 2013 in order to ask for an internal review of this decision.
5. The MOD acknowledged receipt of this internal review on 11 December 2013 and explained that it aimed to respond by 10 January 2014 (ie within 20 working days). The MOD subsequently informed the complainant that it had not been possible to meet this deadline and that he would be informed of the outcome of the internal review as soon as possible.
6. The MOD informed the complainant of the outcome of the internal review on 13 June 2014. The review concluded that the public interest favoured disclosure of the information previously withheld on the basis of section 43(2). In providing the complainant with this information, the MOD relied on section 40(2) of FOIA to redact the names and biographical information of course tutors whose details were not in the public domain.
7. The complainant contacted the MOD on 24 June 2014 and complained that not all of the requested information had been provided to him as the disclosed information only included print-outs of PowerPoint presentations but no other materials relating to the course.
8. The MOD contacted the complainant on 2 July 2014 and explained its considerations simply of the PowerPoint presentations when conducting the internal review had been a genuine oversight rather than an attempt to narrow the scope of his request. In order to complete its internal review MOD provided the complainant with the remaining information it held falling within the scope his request, namely a reading list and a course plan.

Scope of the case

9. The complainant originally contacted the Commissioner on 17 April 2014 in light of the MOD's failure to complete the internal review.
10. Following the completion of the internal review the complainant confirmed that he was dissatisfied with the MOD's delay in providing him with the information he originally requested. He did not seek to dispute the decision to redact a small amount of information on the basis of section 40(2) from the disclosed information.

Reasons for decision

11. Section 10(1) of FOIA requires public authorities to disclose information promptly and in any event within 20 working days following the date of the request.
12. In this case the complainant submitted his request on 18 September 2013. The MOD did not provide him with all of the information falling within the scope of his request until 2 July 2014.
13. The Commissioner has therefore concluded that the MOD breached section 10(1) of FOIA.

Other matters

14. The Commissioner cannot consider the amount of time it took a public authority to complete an internal review in a decision notice because such matters are not a formal requirement of FOIA. Rather they are matters of good practice which are addressed in the code of practice issued under section 45 of FOIA. However, the Commissioner has issued guidance in which he has stated that in his view internal reviews should take no longer than 20 working days to complete and even in exceptional circumstances the total time taken should not exceed 40 working days.
15. In this case the complainant submitted a request for an internal review on 30 October 2013 but the MOD did not inform him of the final outcome of that review until 2 July 2014, some 169 working days later, and after the complainant been forced to raise this matter with the Commissioner. The Commissioner expects the MOD to ensure that the internal reviews it handles in the future adhere to the timescales he has set out in his guidance.

Right of appeal

16. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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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