

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 2015

Public Authority: The Cabinet Office

Address: 70 Whitehall

London

SW1A 2AS

Decision (including any steps ordered)

1. The complainant submitted a request to the Cabinet Office which sought information about the 'Carr Inquiry'. The Cabinet Office confirmed to the complainant that it held information falling within the scope of the request but it needed further time to consider the balance of the public interest test. To date, the Cabinet Office has failed to inform the complainant of its conclusions regarding the public interest test. By failing to do so the Commissioner has concluded that the Cabinet Office breached section 17(3) of FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a substantive response to his information request. If the Cabinet Office decides to withhold any information then the complainant should be provided with a refusal notice giving a full explanation as to why the information will not be disclosed, including details of any public interest test 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

4. The complainant submitted the following request to the Cabinet Office on 16 October 2014:

I would like to know:

- *How much the Carr Inquiry cost?*
- *How many meetings have been held between Bruce Carr and the Minister for the Cabinet Office?*

I would like copies of:

- *The minutes of the meetings between Bruce Carr and the Minister for the Cabinet Office'*

5. The Cabinet Office acknowledged receipt of this request on 20 October 2014. It contacted the complainant again on 13 November 2014 and confirmed that it held information falling within the scope of the request but it considered this information to be exempt from disclosure on the basis of section 22 of FOIA and it needed further time to consider the balance of the public interest test.
6. The Cabinet Office contacted the complainant again on 11 December 2014 and explained that it still needed further time to consider the balance of the public interest test.

Scope of the case

7. The complainant initially contacted the Commissioner on 18 December 2014 to complain about the Cabinet Office's delays in providing him with a substantive response to his request.
8. The Commissioner contacted the Cabinet Office on 5 January 2015 and asked it to provide the complainant with a response to his request within the next 10 working days.
9. The complainant contacted the Commissioner on 22 January and again on 9 February 2015, to confirm that he had not received a response to his request.

Reasons for decision

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, have a 'reasonable' extension of 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.¹
13. In the circumstances of this request case, although the Cabinet Office has informed the complainant of the 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).

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http://ico.org.uk/for_organisations/freedom_of_information/guide/refusing_a_request#when-can-we-refuse-a-request-for-information-15

Right of appeal

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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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
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