

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 February 2015

**Public Authority:** The National Archives  
**Address:** Kew  
Richmond  
Surrey  
TW9 4DU

#### Decision (including any steps)

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1. The complainant has requested access to a closed file in the catalogue of the National Archives and to date he has not received a response. The Information Commissioner's decision is that the public authority has failed to provide a response to the request within the statutory time frame of 20 working days. He requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
2. 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 Information 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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3. On 8 July 2014, the complainant wrote to the public authority and requested information in the following terms:

*'I would like to request access to a file which is listed as being closed on the catalogue of the National Archives.'*

*The file is held by the National Archives and has the reference HO 144/22927.*

*Its title is – "ROYAL: HM King George VI: invitation to visit the London Mosque; refused." The original department reference for the file is 151405. I do not see any reason why a file containing purely historic material should remain closed until 2023.'*

4. The public authority acknowledged the request and stated that it would provide a response by 8 August 2014 claiming an additional 10 working days to consult with other government departments.
5. On 29 August 2014 TNA apologised for the delay and hoped to provide an update by 5 September 2014.
6. On 3 further occasions (5 and 30 September, 8 October), TNA wrote to the complainant hoping to provide an update by a new deadline (12 September, 7 and 15 October).
7. On 12 November 2014 TNA apologised but was 'unable to provide you with a final decision on your request as we are still consulting with several government departments with regard to this record'. This was repeated on 1 December 2014.
8. On 2 December 2014 the complainant requested an internal review. TNA confirmed the undertaking and would respond by 2 January 2015. On 13 January 2015 TNA extended the time for the review to 40 days (30 January 2015)
9. The complainant wrote to the Information Commissioner which was received on 7 January 2015.
10. The Commissioner wrote to the public authority on 20 January 2015 instructing it to issue an adequate response to the complainant within 10 working days. On 20 January 2015 TNA confirmed that 'an Internal Review response was issued to the complainant on 13 January concerning the handling of his request up to 2 December 2014. We continue to correspond with the relevant parties to conclude the ongoing request'.
11. On 4 February 2015 the complainant informed the Commissioner of a further letter from TNA dated 28 January 2015 which apologised and repeated that 'we are unable to provide you with a final decision on your request as we are still consulting with several government departments with regard to your request'.
12. To date no response to the request has been forthcoming and the Commissioner has not seen any evidence to show that an internal

review into the handling of the request up to 2 December 2014 has taken place.

## Reasons for decision

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13. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
14. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
15. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

## Other matters

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16. Although they do not form part of this decision notice, the Commissioner would draw TNA's attention to the following points.
17. The introduction to the code of practice ([Section 45 Code of Practice](#) ) issued under section 45 of the Act states:

"15. All communications in writing to a public authority, including those transmitted by electronic means, may contain or amount to requests for information within the meaning of the Act, and so must be dealt with in accordance with the provisions of the Act. Whilst in many cases such requests will be dealt with in the course of normal business, it is essential that public authorities dealing with correspondence, or which otherwise may be required to provide information, have in place procedures for taking decisions at appropriate levels, and ensure that sufficient staff are familiar with the requirements of the Act and the Codes of Practice issued under its provisions. Staff dealing with correspondence should also take account of any relevant guidance on good practice issued by the Commissioner. Authorities should ensure that proper training is provided in this regard. Larger authorities should ensure that they have a central core of staff with particular expertise in Freedom of Information

who can provide expert advice to other members of staff as needed.”

18. Although the introduction does not form part of the code itself, the Commissioner would echo its recommendations.
19. In addition, it is of particular concern that the request was submitted seven months ago in July 2014 and the complainant has still not had a substantive response. TNA has not acted upon the Commissioner’s correspondence on 20 January 2015 asking it to respond to the request within ten working days.
20. The Code of Practice under section 45 of the FOIA also provides that internal reviews should be undertaken “promptly”. The Commissioner’s guidance is that internal reviews should generally not take longer than 20 working days. He trusts that TNA will make improvements in this regard in the future.
21. The Commissioner does not consider this to be satisfactory and would expect TNA to deal with requests and reviews within the suggested deadlines in the future.

## Right of appeal

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22. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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 .....**

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