

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 October 2015

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information about plots to assassinate Julian Assange.
2. The Home Office failed to respond to this request for information and the Commissioner's decision is that in doing so the Home Office breached sections 1(1) and 10(1) of the FOIA.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation:
 - issue a response to the complainant under the FOIA.
4. The Home Office 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

5. On 22 June 2015, the complainant wrote to the Home Office and requested information in the following terms:

"Could you please send me any-and-all records held by the Home Office which concern current or previous plots to assassinate Julian Assange, including those generated by UK and US security agencies such as MI5, MI6 and the CIA".

6. The Home Office responded on 21 July 2015 saying that it required more time to consider the public interest test. It estimated that it would take an additional 20 days to take a decision where the balance lies.
7. It stated that the exemptions it considers apply in relation to the request are:
 - section 24(2) National Security
 - section 27(4) International Relations
 - section 31(3) Law Enforcement.
8. The Home Office had not responded substantively by the date of this notice.

Scope of the case

9. The complainant contacted the Commissioner on 5 September 2015 to complain that he had not received a response to his request.
10. The Commissioner wrote to the Home Office on 23 September 2015. He asked it to respond within 10 working days.
11. The Commissioner considers the scope of the case to be whether the Home Office has complied with sections 1(1) and 10(1) of the FOIA.

Reasons for decision

12. Section 1(1) of FOIA states that upon receipt of a request a public authority must confirm or deny whether information is held, and if that information is held it must be communicated to the requester.
13. Section 10(1) of the FOIA states that public authorities must comply with section 1(1) within 20 working days of receipt of the request.
14. Section 10(3) enables an authority to extend the 20 working day limit up to a 'reasonable' time in any case where it requires more time to determine whether or not the balance of the public interest lies in maintaining an exemption.
15. The Commissioner's position is that a public authority should take no more than an additional 20 working days to consider the public interest, which means that the total time spent dealing with the request should not exceed 40 working days.

16. The Home Office is obliged under section 1(1) of the FOIA to confirm or deny whether recorded information relevant to the complainant's request is held, unless there is an exemption which prohibits it from doing so (in which case a refusal notice must be issued). As the Home Office has not responded to the complainant and confirmed whether relevant information is held it has breached section 1(1) of the FOIA.
17. Despite the intervention of the Commissioner, the Home Office has not provided a substantive response to the complainant's request for information.
18. From the information provided to the Commissioner in this case it is evident that the Home Office did not respond to the complainant within the statutory timeframe and so it is in breach of section 10(1) of the FOIA.

Other matters

19. The delay in responding to this request will be logged as part of ongoing monitoring of the Home Office's compliance with the FOIA.

Right of appeal

20. 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

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

21. 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.
22. 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
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Cheshire
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