

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 16 November 2015

Public Authority: Office of the First Minister and deputy First Minister

Address: Castle Buildings
Stormont Estate
Belfast
BT4 3SR

Decision (including any steps ordered)

1. The complainant has requested information relating to meetings attended by Ministers or departmental officials with two named individuals. The Office of the First Minister and deputy First Minister (OFMDFM) has failed to respond to the request; therefore the Commissioner's decision is that OFMDFM has failed to comply with section 10(1) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request: Firstly, confirm or deny that the requested information is held (or, if the public authority decides to refuse to confirm or deny that any of the requested information is held, then a refusal notice should be issued that complies with the requirements of section 17 of the FOIA which should include the outcome of any public interest considerations).
 - Secondly, and subject to the above, if the information is held the public authority must either disclose the requested information or, if it wishes to withhold any information, issue a refusal notice in relation to the information it wishes to withhold (which should include the outcome of any public interest considerations) and disclose the remainder.
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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 27 July 2015 the complainant requested the following information from OFMDFM:

"Please could you send me records of any meeting or correspondence between Ministers, Junior Ministers or departmental officials, and [two named individuals]".

5. OFMDFM acknowledged receipt of the request on 28 July 2015.

Scope of the case

6. The complainant contacted the Commissioner on 10 September 2015 to complain that he had not received a response to his request.
7. The Commissioner wrote to OFMDFM on 15 September 2015 to request that it respond to the complainant's request. Despite this correspondence OFMDFM did not provide any further response to the complainant.

Reasons for decision

Section 1: general right of access **Section 10(1): time for compliance**

8. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant. Both provisions are subject to exemptions under the FOIA but a valid refusal notice must be issued to the extent that this is the case.
9. Section 10(1) requires that the public authority comply with section 1 promptly, and in any event no later than 20 working days after the date of receipt of the request.
10. Despite the Commissioner's intervention, OFMDFM has failed to respond to the complainant's request. OFMDFM has failed to confirm or deny that

it holds the requested information, and has neither disclosed the requested information nor provided a valid refusal notice.

11. The Commissioner therefore finds OFMDFM in breach of section 10(1) of the FOIA.

Right of appeal

12. 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

13. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
14. 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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