

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 June 2016

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

Decision (including any steps ordered)

1. The complainant requested information relating to asylum policy guidance on discretionary leave. The Home Office failed to respond to the request and, in so doing, breached sections 1(1) and 10(1) of the FOIA.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Respond to the request.
3. 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 12 March 2016 the complainant wrote to the Home Office and requested information in the following terms:

"1. Can you please disclose copies of all earlier iterations of the policy guidance, as referenced on page three of version 8.0 of the policy (12 June 2015); and

2. Can you please disclose any further iterations of the policy guidance issued since version 8.0 of 12 June 2015 was published (internally only); and

3. *Can you please disclose the relevant and current, and all earlier iterations, of the policy relevant to children as referenced on page 2 of version 8.0 (12 June 2015) suicide policy; and*
4. *Can you please confirm when you expect to be able to widely and fully publish the current policy (whether that is version 8.0 of 12 June 2015, or later); and*
5. *Can you please confirm when you expect to be able to widely and fully publish the current policy as relevant to children (as request in point 3 above); and*
6. *Why the two separate policies for adults and children have not yet been published; and*
7. *What specific training is given to Home Office officials who are tasked with determining what level the applicant (adult or child) should be assessed at; and*
8. *Who gives the specific training relevant to training the Home Office official expected to make these decision for either adults or children; and*
9. *Can you please disclose all training materials used to train Home Office officials to deal with cases where there is concern that there is a risk of suicide; and*
10. *Why, in cases where the policy has been invoked (examples can be given upon request, where necessary), the Home Office official who has made the decision to refuse an application has served the decision on the Solicitor and/or applicant's GP and/or applicant's Mental Health Professional and asked them to inform the applicant of the decision, rather than following the specific policy guidance (at page 8 of version 8.0, 12 June 2015) that: 'Whatever the level of risk, if you fear a negative immigration decision could exacerbate the risk of suicide or self harm, you must consider serving the decision in person and inviting mental health or social service staff to be there when you serve the decision.*

I also ask again for statistics in relation to the following specific questions and request that the information is released:

1. *Current statistics of clients (adults and children) being dealt with at level one:*
 - a. *Time scales associated with numbers (i.e. how many clients (adults and children) have been assessed as being at level one since the policy has been introduced); and*
 - b. *How long it's taking to determine the claim for all client (adults and children) from point of referral and acceptance at level one.*
2. *Current statistics of clients (adults and children) being dealt with at level two:*
 - a. *Time scales associated with numbers (i.e. how many clients (adults and children) have been assessed as being at level one*

- since the policy has been introduced); and*
- b. How long it's taking to determine the claim for all client (adults and children) from point of referral and acceptance at level two.*
- 3. Current statistics of clients (adults and children) being dealt with at level three:*
- a. Time scales associated with numbers (i.e. how many clients (adults and children) have been assessed as being at level one since the policy has been introduced); and*
- b. How long it's taking to determine the claim for all client (adults and children) from point of referral and acceptance at level three.*
- 4. How many clients have either been moved from one level to another – either up or down (and please specify direction and level change) based on review.”*
5. The Home Office failed to respond substantively to this request.

Scope of the case

6. The complainant contacted the Commissioner on 4 May 2016 to complain about the failure by the Home Office to respond to this request. The Commissioner contacted the Home Office on 7 June 2016 and asked it to respond to the request within 10 working days. The Home Office did not respond.

Reasons for decision

Sections 1 and 10

7. 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. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *“not later than the twentieth working day following the date of receipt”*.
8. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond substantively to the request within 20 working days. The Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

9. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Home Office to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

10. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

11. 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.
12. 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

Ben Tomes
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