

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 28 November 2016

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

### **Decision (including any steps ordered)**

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1. The complainant requested information from the Home Office about Operation Nexus. By the date of this notice, the Home Office has yet to provide a substantive response to this request.
2. The Commissioner's decision is that the Home Office breached sections 1 and 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt. She requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
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 Act and may be dealt with as a contempt of court.

### **Request and response**

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

*"How many foreign nationals have been removed from the UK as a result of Operation Nexus in the following years: 2012, 2013, 2014 and 2015. Please break this down by nationality.*

*How many foreign nationals have been deported under Operation Nexus following conviction for a criminal offence? Please break this down by nationality.*

*How many foreign nationals deported under Operation Nexus have had no criminal conviction? Please break this down by nationality.*

*How many foreign nationals deported under Operation Nexus have been "suspected criminals"?*

*How many foreign nationals have been deported under Operation Nexus using European law that states people must exercise their right to work or be self-sufficient if they intend to stay in another EU country?*

*How many foreign nationals have been deported under Operation Nexus after being arrested for begging?"*

5. The Home Office acknowledged receipt on 12 April 2016. Having received no response, the complainant chased one on 23 May 2016, 7 July 2016 and 1 September 2016. All of these communications were acknowledged by the Home Office but no response was sent and no reasoning provided.

## **Scope of the case**

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6. On 22 September 2016 the complainant contacted the Commissioner to complain about the lack of response by the Home Office to his request for information. The Commissioner required more information from the complainant which was provided on 3 November 2016.
7. The Commissioner contacted the Home Office on 9 November 2016 to query the non-response; the Home Office did not reply.
8. No substantive response to the request had been provided by the date of this notice.

## **Reasons for decision**

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### **Section 10 – time for compliance**

9. 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.
10. 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. From the information provided to the Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.
11. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. The Home Office is now required to respond to the request in accordance with the FOIA.

### **Other matters**

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12. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the considerable delay in this case. She has also noted the poor level of engagement by the Home Office, which did not even acknowledge receipt of her correspondence despite it being requested. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

## Right of appeal

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13. 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)

14. 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.
15. 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 .....**

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**