

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

### **Decision notice**

**Date:** 10 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 investigations into alleged or suspected sexual offences at a named immigration centre. 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.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
  - Issue a response to the request set out in paragraph 5 under the FOIA by either complying with section 1(1) or issuing a valid refusal notice.
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**

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5. On 3 July 2016 the complainant wrote to the Home Office and requested information in the following terms:

*"The following questions relate to Yarl's Wood Immigration Centre and internal investigations which were conducted in 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016.*

- *I wish to obtain copies of all internal investigation documentation relating to alleged or suspected sexual violence or sexual misconduct at the centre during this time period. If necessary to protect individuals' identities and comply with data protection, this information may be provided in a redacted format to omit individuals' names or other information which might cause reasonable concern an individual may be identified. By alleged or suspected sexual violence or misconduct, I refer to incidents including but not limited to: rape, sexual assault, sexual harassment, or any other acts which may constitute a sexual offence; as well as any sexual intercourse or other behaviour which may not constitute a sexual offence but may be considered misconduct in a public office.*
- *I wish to obtain guidelines during this time period related to these internal investigations for both alleged victims in the investigations and alleged perpetrators in the investigations.*
- *I wish to obtain guidelines during this time period for staff or agencies conducting the investigations including guidelines for instigating investigations, conducting investigations, criteria for establishing whether an investigation is substantiated or unsubstantiated, for determining whether to refer the matter to the police, for determining whether to refer the matter to other external bodies.*
- *I wish to know whether the Home Office has any record of being notified of these internal investigations prior to them taking place? Or while they were taking place?*

*I wish for this information to be provided to me in electronic format to this email address: [name redacted]."*

6. The Home Office acknowledged receipt of the request on 4 July 2016. It wrote to the complainant on 2 August 2016 and apologised for the delay in responding.
7. The Commissioner notes that, in the absence of a substantive response to her request, the complainant requested an internal review on 3 August 2016. The Home Office acknowledged receipt on 8 August 2016 and a month later, said the internal review result was awaiting 'clearance'.
8. To date, the Home Office has not responded to either the request or the internal review request.

## **Scope of the case**

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9. The complainant contacted the Commissioner on 14 September 2016 to complain about the way her request for information had been handled.
10. The Commissioner contacted the Home Office on 18 October and 1 November 2016 to query the non-response; the Home Office did not reply.
11. No substantive response to the request had been provided by the date of this notice.

## **Reasons for decision**

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12. 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.
13. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
14. 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.

### *Conclusion*

15. 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. At paragraph 3 above the Home Office is now required to respond to the request of 3 July 2016 in accordance with the FOIA.

## **Other matters**

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16. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. 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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17. 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)

18. 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.
19. 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**