

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 March 2017

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

Decision (including any steps ordered)

1. The complainant has requested, from the Home Office, the number of allegations of rape that have been reported by detainees of immigration removal centres. 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

4. On 20 June 2016 the complainant wrote to the Home Office and requested information in the following terms:

"(1) Please state the number of allegations of rape that have been reported by detainees of immigration removal centres in each of the following calendar years:

- i) 2012*
- ii) 2013*

- iii) 2014*
- iv) 2015*
- v) 2016 to date.*

(2) Please provide a breakdown of the number of allegations of rape that have been made in each of the following years:

- i) 2012*
- ii) 2013*
- iii) 2014*
- iv) 2015*
- v) 2016 to date*

at each of the following immigration removal centres:

- a) Brook House, Gatwick*
- b) Campsfield House, Oxfordshire*
- c) Colnbrook, Middlesex*
- d) Dungavel House, South Lanarkshire*
- e) Harmondsworth, Middlesex*
- f) Larne House, Antrim*
- g) Morton Hall, Lincolnshire*
- h) Pennine House, Manchester*
- i) The Verne, Dorset*
- j) Tinsley House, Gatwick*
- k) Yarl's Wood, Bedfordshire".*

5. The Home Office acknowledged the request on the following day.
6. On 23 June 2016 the Home Office sought clarification regarding the request. This was provided by the complainant on the same day.
7. To date, the Home Office has not responded to the request.

Scope of the case

8. The complainant contacted the Commissioner on 5 December 2016 to complain about the lack of response to his information request.
9. The Commissioner wrote to the Home Office on 16 February 2017 asking it to respond within 5 working days.
10. On 23 February 2017 the complainant confirmed that he had still not received a response.

Reasons for decision

Section 10 – time for compliance

11. 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.
12. 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.
13. 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

14. 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 clarified request of 23 June 2016 in accordance with the FOIA.

Other matters

15. 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

16. 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

17. 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.
18. 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
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Wycliffe House
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Wilmslow
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SK9 5AF