

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 10 May 2017

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

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to the decision to authorise the use of spit hoods or similar devices by police forces in England and Wales.
2. The Home Office failed to respond to this request for information and the Commissioner's decision is that in doing so the Home Office breached sections 1(1) and 10(1) of the FOIA.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
  - Issue a response to the request 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 FOIA and may be dealt with as a contempt of court.

#### Request and response

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5. On 22 November 2016, the complainant wrote to the Home Office and requested information in the following terms:

*"Pursuant to s1(1) of the Freedom of Information Act I should be grateful if you would disclose copies of information (whether in the form of correspondence or other documents) regarding the decision to authorise the use of spit hoods or similar devices by police forces in England and Wales. We anticipate this information will include*

- 1. Risk/benefit assessments, including as regards the use of spit hoods on vulnerable grounds, including children, the disabled and those suffering from mental illnesses.*
  - 2. Medical advice/research obtained or collated by the Home office regarding the risk presented to officers and other individuals by being spat at*
  - 3. Medical advice/research obtained or collated by the Home Office regarding the risk presented to detainees who are placed in spit hoods*
  - 4. Equality impact assessments.*
  - 5. Legal advice received by the Home Office concerning the use of spit hoods*
  - 6. Representation received by the Home Office from interested parties, including police forces, police representative bodies, civil society groups regarding the use of spit hoods"*
6. At the date of this decision notice, the Home Office had yet to respond substantively to the request.

### **Scope of the case**

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7. The complainant contacted the Commissioner on the 19 January 2017 to complain about the way his request for information had been handled.
8. The Commissioner has considered in this decision notice the Home Office's compliance with section 1(1) and 10(1) of the FOIA.

### **Reasons for decision**

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9. The Commissioner wrote to the Home Office on 17 March 2017 and asked it to respond to the complainant's request within 10 working days. She wrote to it again on 28 April 2017 to ask it to confirm whether this

had been done. Despite this, neither the Commissioner nor the complainant received any response from Home Office.

10. 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.
11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
12. 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.

### **Other matters**

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13. 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 which are causing delays.

## Right of appeal

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14. 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)

15. 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.
16. 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** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**