

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 September 2017

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

Decision (including any steps ordered)

1. The complainant has requested information from the Home Office regarding the extension to the Regulation of Investigatory Powers Act aka "Snoopers Charter".
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as it has failed to give a substantive response to this request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Home Office must issue a response to the request in accordance with its obligations under the FOIA.
4. The public authority 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

5. On 25 November 2016, the complainant wrote to the Home Office and requested information which is detailed in the attached annex.
6. The Home Office acknowledged the request on 25 November 2016. It stated that it aimed to send a full response by 28 December 2016.
7. On the 9 February 2017 the Home Office sent a response to the complainant but advised him that his request had not been answered as an FOI request as it was a series of questions regarding policies.
8. On 20 February 2017 the complainant contacted the Home Office again and stated that his questions had not been answered in the response provided on 9 February 2017.
9. On 25 February 2017 the Home Office acknowledged receipt of the request.

Scope of the case

10. The complainant contacted the Commissioner on 25 April 2017 to complain about the way his request for information had been handled.
11. Following receipt of the complaint the Commissioner contacted the Home Office, reminding it of its responsibilities and asking it to respond to the complainant within 10 working days.
12. Despite this intervention the Home Office has failed to respond to the complainant.

Reasons for decision

13. Section 10(1) of the FOIA states that

"Subject to subsections (2) and (3), 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."

14. As a response has not yet been provided the Commissioner finds that the Home Office has breached section 10(1) in failing to respond within 20 working days.

Right of appeal

15. 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

16. 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.
17. 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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

"Under the proposed legislation, the government agencies below will be given access to private individuals' internet history:

- *Metropolitan police force*
- *City of London police force*
- *Police forces maintained under section 2 of the Police Act 1996*
- *Police Service of Scotland*
- *Police Service of Northern Ireland*
- *British Transport Police*
- *Ministry of Defence Police*
- *Royal Navy Police*
- *Royal Military Police*
- *Royal Air Force Police*
- *Security Service*
- *Secret Intelligence Service*
- *GCHQ*
- *Ministry of Defence*
- *Department of Health*
- *Home Office*
- *Ministry of Justice*
- *National Crime Agency*
- *HM Revenue & Customs*
- *Department for Transport*
- *Department for Work and Pensions*
- *NHS trusts and foundation trusts in England that provide ambulance services*
- *Common Services Agency for the Scottish Health Service*
- *Competition and Markets Authority*
- *Criminal Cases Review Commission*
- *Department for Communities in Northern Ireland*
- *Department for the Economy in Northern Ireland*
- *Department of Justice in Northern Ireland*
- *Financial Conduct Authority*
- *Fire and rescue authorities under the Fire and Rescue Services Act 2004*
- *Food Standards Agency*
- *Food Standards Scotland*
- *Gambling Commission*
- *Gangmasters and Labour Abuse Authority*
- *Health and Safety Executive*
- *Independent Police Complaints Commissioner*
- *Information Commissioner*
- *NHS Business Services Authority*
- *Northern Ireland Ambulance Service Health and Social Care Trust*
- *Northern Ireland Fire and Rescue Service Board*
- *Northern Ireland Health and Social Care Regional Business Services*

Organisation

- *Office of Communications*
- *Office of the Police Ombudsman for Northern Ireland*
- *Police Investigations and Review Commissioner*
- *Scottish Ambulance Service Board*
- *Scottish Criminal Cases Review Commission*
- *Serious Fraud Office*
- *Welsh Ambulance Services National Health Service Trust*

1) For each of the above agencies, please explain:

a) What is the purpose of the agency given access to private individuals' records?

b) What will the agency be looking for?

c) How could this information be used?

d) How long will the information once retrieved from the ISP be retained?

e) Under what circumstance would the agency access this information?

f) How is access to private individual's information authorised?

2) Once the Internet Connection Records (ICRs) is obtained, how will targeted private individual be identified?

3) In what format will the ICR be retrieved?

4) Please state all of the fields (items of information) in the ICR.

5) Will other government agencies/foreign agencies be given access to this information?

6) Will the information obtained be sold/supplied to private companies?

7) Does the Data Protection Act apply?

8) Does the equality Act 2010 apply?

9) Does the Human Rights Act 1998 apply?

10) Since 2011 there have been 9 Members of Parliament that have been imprisoned. Why are they exempt the Regulation of Investigatory Powers Act 2000?"