

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 cost of charter operations.
2. The Commissioner's decision is that the Home Office has breached section 10(3) of the FOIA as it has failed to give a substantive response to this request within a reasonable timeframe.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Home Office must issue a substantive 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 24 February 2017, the complainant wrote to the Home Office and requested information in the following terms:

"... would like to request the following information under the Freedom of Information Act 2000.

Home Office charter operations January through December, there were a total of 35 flights.

What was the total cost of these flights?"

6. The Home Office acknowledged the request on the same day. It stated that it aimed to issue a full response by 27 March 2017.
7. On 27 March 2017 the Home Office wrote to the complainant to say that the request was being considered under the exemption in section 43 of the Act, which relates to commercial confidentiality. And that they needed to consider the public interest test fully as this is a qualified exemption. The Home Office then advised the complainant that they needed to extend the 20 working day response period and aimed to let him have a full response by 21 April.

Scope of the case

8. The complainant contacted the Commissioner on 11 May 2017 to complain about the way his request for information had been handled.
9. 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.
10. Despite this intervention the Home Office has failed to respond to the complainant.

Reasons for decision

11. Section 10(1) of the FOIA states that an authority must comply with section 1(1) of the FOIA '...promptly and in any event not later than the twentieth working day following the date of receipt'. However, section 10(3) enables an authority to extend the 20 working day limit up to a 'reasonable' time in any case where the public interest test attached to the application of a qualified exemption is being considered.
12. The FOIA does not define what constitutes a 'reasonable' extension of time. It is the view of the Commissioner however that an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days.
13. The Commissioner has found that the time taken to produce a substantive response to the request considerably exceeds the 40 working days and is therefore not reasonable. She has therefore decided that the Home Office has breached section 10(3) of the FOIA.

Right of appeal

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

Website: 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

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