

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 17 May 2018

**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 about the number of flexible and permanent Border Force staff.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Home Office to take the following step to ensure compliance with the legislation.
  - Respond to the complainant's request in accordance with the FOIA.
4. The Home Office must take this step 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 23 November 2017, following correspondence with the Home Office to refine his request for information about the numbers of Border Force

Officers, the complainant wrote to the Home Office and requested information in the following terms:

*"I can confirm that I would like the count for the flexible workers and permanent staff as of the 31 January of each year.*

*Example: 2013: 2 seasonal staff employed (as of 31 January 2013), 30 permanent staff employed (as of 31 January 2013)."*

6. The Home Office acknowledged the request on 24 November 2017, stating that it aimed to provide a full response by 22 December 2017.
7. As no response was provided within 20 working days, the complainant wrote to the Home Office on 4, 8 and 11 January 2018 to chase a response.
8. On 11 January the Home Office acknowledged and apologised for the delay but stated that it was unable to provide a timescale as to when a response would be provided. To date, a substantive response has not been issued.

### Scope of the case

---

9. The complainant contacted the Commissioner on 18 January 2018 to complain about the failure by the Home Office to respond to his request.
10. The Commissioner has considered whether the Home Office has complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

### Reasons for decision

---

11. Section 1(1) of the FOIA states that:

*Any person making a request for information to a public authority is entitled –*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

12. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt."*

13. On 8 March 2018 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
14. Despite this intervention the Home Office has failed to respond to the complainant.
15. From the evidence provided to the Commissioner in this case, it is clear that the Home Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Home Office has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

## 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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** .....

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**