

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 September 2018

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

Decision (including any steps ordered)

1. The complainant requested information relating to members of the Windrush generation who have been wrongfully removed or deported.
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.
 - The Home Office must issue a substantive response to the request in accordance with its obligations under 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 17 May 2018, the complainant wrote to the Home Office and requested information in the following terms:

"It was recently revealed that at least 63 members of the Windrush generation could have been wrongfully removed or deported from the UK since 2002. I would like to know how many of these people were wrongfully removed or deported during the period of time that Theresa May was Home Secretary?"

6. The Home Office acknowledged the request on the same day, stating that it aimed to provide its response within 20 working days.
7. On 15 June 2018, the twentieth working day, the Home Office wrote to the complainant to confirm that it was not able to respond in the statutory time frame. It apologised for the delay and said that it would send a full reply as soon as possible.

Scope of the case

8. The complainant contacted the Commissioner on 20 July 2018 to complain about the Home Office's failure to respond to his information request.
9. On 13 August 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.
10. Despite this intervention the Home Office has failed to respond to the complainant.

Reasons for decision

11. Section 1(1) of 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. 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

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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF