

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 17 August 2018

**Public Authority:** The Cabinet Office  
**Address:** 70 Whitehall  
London  
SW1A 2AS

#### Decision (including any steps ordered)

---

1. The complainant submitted a request to the Cabinet Office for briefing documents provided to the then Prime Minister, Tony Blair, and his Chief of Staff on 11 and 12 September 2001. The Cabinet Office confirmed that it held information falling within the scope of the request but explained that it considered section 27 of FOIA to apply and it needed additional time to consider the balance of the public interest test. To date, the Cabinet Office has failed to complete its public interest test deliberations in relation to the request. By failing to complete these deliberations within a reasonable timeframe the Commissioner has concluded that the Cabinet Office has breached section 17(3) of FOIA in respect of its handling of this request.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide the complainant with a substantive response to his information request of 10 May 2018. If the Cabinet Office decides to withhold any information in response to this request then the complainant should be provided with a refusal notice giving a full explanation as to why information will not be disclosed, including details of any public interest test considerations.
3. 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**

---

4. The complainant submitted the following request to the Cabinet Office on 10 May 2018:

*'This is a freedom of information request.*

*Please could you provide any briefing documents prepared for Prime Minister Tony Blair and his Chief of Staff Jonathan Powell on September 11th 2001, and September 12th 2001?*

*And if such documents exist any "tick tock" documents for the same dates? By this I mean documents that describe what a given person in this case, Tony Blair was doing on a minutebyminute basis. I understand these are common in the United States so am assuming we have something similar in Britain.'*

5. The Cabinet Office acknowledged receipt of the request on the same day.
6. The Cabinet Office then contacted the complainant on 8 June 2018 and confirmed that it held information falling within the scope of his request but it considered this to be exempt from disclosure on the basis of section 27 (international relations) of FOIA and that it needed further time to consider the balance of the public interest test.
7. Having received no further communication from the Cabinet Office, the complainant contacted it on 9 July, 23 July and 1 August 2018 in order chase up a response to his request.

## **Scope of the case**

---

8. The complainant contacted the Commissioner on 3 August 2018 to complain about the Cabinet Office's failure to provide him with a substantive response to his request.

## Reasons for decision

---

9. Section 1(1) of FOIA provides 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.'*
10. Section 10(1) of FOIA provides that 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.
11. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days, which would allow a public authority 40 working days in total. The Commissioner considers that any extension beyond 40 working days should be exceptional and requires the public authority to fully justify the time taken.
12. In the circumstances of this request the Cabinet Office has taken more time than the Commissioner's guidance recommends for public interest test considerations. In the Commissioner's opinion the Cabinet Office has therefore failed to complete its public interest test considerations within a reasonable timeframe and therefore she has concluded that it has not complied with section 17(3) of FOIA in respect of its handling of the complainant's request.

## Right of appeal

---

13. 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)

14. 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.
15. 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 .....**

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**