

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 October 2018

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

Decision (including any steps ordered)

1. The complainant requested information regarding the Windrush generation.
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 22 April 2018, the complainant wrote to the Home Office and requested information in the following terms:

"Please note that I am only interested in information which was generated between the period 1 January 2009 to 1 December 2010.

Please note my request refers to the issue of boarding cards and landing papers and ID papers held by members of the so called Windrush generation on their arrival to the UK.

You will be aware that this issue has dominated news media in the last few days.

1. During the aforementioned period did the Home Secretary exchange correspondence and communications including emails with the Head of the UK border agency. Please note that I am only interested in that correspondence and communication which relates in any way to the issue of boarding cards and or landing papers for immigrants and arrivals who came to the UK from The Caribbean before 1980. These arrivals would now frequently be referred to as members of the Windrush Generation. This information will include but not be limited to plans by The Government(s) to destroy some or all of the documentation.

2. If the answer is yes can you please provide copies of this correspondence and communication including emails.

3. During the aforementioned period did the Home Secretary and the Head of the UK Border speak by telephone about the issue of boarding cards and landing papers for immigrants and arrivals who came to the UK from the Caribbean before 1980. If the answer is yes can you please provide copies of any sound recordings held and or the transcripts of any conversation.

Please redact the name and personal details of any individual arrivals/migrants mentioned in the documents."

6. On the same day, the complainant wrote to the Home Office to ask for the following information, as an addition to his initial request:

"4. If relevant documentation has subsequently been destroyed can you please provide the following details. In the case of each destroyed document can you please provide a title and a brief outline of its contents. In the case of each destroyed document can you state when it was destroyed and why. If the destroyed document(s) continues to be held in another form can you please provide a copy of the document(s).

7. The Home Office acknowledged the request on 23 April 2018 but failed to provide a substantive response within 20 working days. It wrote to the complainant on 24 May 2018 to apologise for the delay.

8. Due to the Home Office's failure to provide a response, on 20 June 2018, the complainant requested an internal review.

Scope of the case

9. The complainant contacted the Commissioner on 18 August 2018 to complain about the Home Office's failure to respond to his information request.
10. On 24 September 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.
11. Despite this intervention the Home Office has, to the date of this notice, failed to respond to the complainant.

Reasons for decision

12. 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."

13. 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."*
14. 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

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

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