

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 has requested information relating to EU citizens who, he believes, may struggle to apply for Settled Status in the run up to Brexit.
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 4 June 2018, the complainant wrote to the Home Office and requested information in the following terms:

"I would like to make a request under the Freedom of Information Act.

This request relates to the issue of legitimate EU citizens who may – for various reasons - struggle to apply for Settled Status in the run up to Brexit. For instance, these people may include (but are not limited to):

Looked After Children, elderly people, disabled people, Roma people, rough sleepers, people with mental health issues.

*1. Please provide a **copy of all assessments and reports** produced by the Home Office regarding legitimate EU citizens who may struggle to apply for Settled Status in the run up to Brexit. (NB: this should include any documents commissioned by the Home Office but written externally. It should not include email correspondence).*

*2. What estimations - if any - has the Home Office made of the **numbers** of legitimate EU citizens who, **for whatever reason**, may find it difficult to apply for Settled Status? If possible, please break this down by category of people (for instance: Looked After Children, people with disabilities, elderly people, and so on).*

*3. What estimations - if any - has the Home Office made of the **numbers** of legitimate EU citizens who **may lack the necessary documentation** to be granted Settled Status? If possible, please break this down by category of people (for instance: Looked After Children, people with disabilities, elderly people, and so on).*

4. Regarding the application process for Settled Status, can you confirm:

(a) What the fees will be for individuals

(b) Whether fees will be reduced or waived for certain categories of people, such as poor or vulnerable individuals

(c) Whether applications will only be possible online

(d) What plans (if any) are in place to help EU citizens who do not have internet access to apply for Settled Status, or who are not computer-literate"

6. On 16 July 2018 the complainant wrote to the Home Office to request a response to his request for information. The Home Office acknowledged

the request the same day and stated it did not receive the request of 4 June 2018.

7. On 20 August 2018 the complainant wrote to the Home Office to request an update.
8. On 23 August 2018 the complainant wrote to the Home Office again to request a response. The Home Office responded the same day to advise it had referred the request to the case handler. To date a substantive response has not been provided.

Scope of the case

9. The complainant contacted the Commissioner on 24 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 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

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