

## **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)**

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1. The complainant requested information about persons scheduled to be on a particular charter flight.
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**

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5. On 26 June 2018, the complainant wrote to the Home Office and requested information in the following terms:

*"Please confirm if you are aware of anyone who was scheduled to be on the charter flight to Nigeria and Ghana from Stansted Airport on 28 March 2017 who may be entitled to stay in the country on the basis of their being a Commonwealth citizen of the Windrush generation.*

*In your answer, please include all persons who may have been granted the right to stay under the Immigration Act 1971, and any other similar legislation that may benefit Commonwealth citizens.*

*In your answer, please include people who have claimed the right to stay under the Immigration Act 1971 (or any other legislation benefitting Commonwealth citizens of the Windrush generation)."*

6. The Home Office acknowledged the request on 27 June 2018.
7. As no response was provided within 20 working days, the complainant wrote to the Home Office on 18 August 2018 to request an internal review.
8. The Home Office responded on 18 September 2018 apologising for the delay and acknowledging that it had breached section 10 of the FOIA.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 10 September 2018 to complain about the Home Office's failure to respond to her 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**

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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

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

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