

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 21 January 2019

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

**Decision (including any steps ordered)**

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1. The complainant requested information relating to specific redundancy scheme compensation cases that had been submitted to the Cabinet Office for consultation.
2. The Commissioner's decision is that the Cabinet Office failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The Cabinet Office 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. The complainant submitted an information request to the Cabinet Office on 5 June 2018 and was advised to narrow the scope of their request. The complainant then requested information in the following terms:

*"This is a freedom of information request to determine how often and under what circumstances discretion has been sought and granted. Specifically:*

- 1. The number of approaches / business cases submitted to Cabinet Office to include 'other service' as part of the 'reckonable service' from the Department for Work and Pensions (DWP) for the period 1 December 2017 to 31 March 2018 – and number of approvals*
  - 2. The number of approaches / business cases submitted to Cabinet Office to include 'other service' as part of the 'reckonable service' from HMRC for the period 1 December 2017 to 31 March 2018 – and number of approvals*
  - 3. The number of approaches / business cases submitted to Cabinet Office to include 'other service' as part of the 'reckonable service' from other government departments for the period 1 December 2017 to 31 March 2018 (excluding DWP and HMRC) – and number of approvals*
  - 4. Three examples of the circumstances under which discretion was sought*
  - 5. The number of any approvals granted by Cabinet Office in the period 1 December 2017 to 31 March 2018 to include service from non-civil service employers, for example, local authorities and other organisations which come under the Public Sector Transfer Hub umbrella"*
6. The Cabinet Office has failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 8 October 2018 to complain about the failure, by the public authority, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Cabinet Office on 14 November 2018 to highlight the outstanding response. As there was no evidence to suggest the Cabinet Office had received the request, she requested that the Cabinet Office respond to the request

within 20 working days. The correspondence was neither acknowledged nor responded to.

9. The complainant contacted the Commissioner on 2 January 2019 to request a decision notice considering the Cabinet Office's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the public authority has complied with section 10 of the FOIA.

### Reasons for decision

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11. Section 1(1) of the 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 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Cabinet Office has breached section 10 of the FOIA.

## Right of appeal

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16. 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)

17. 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.
18. 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 .....**

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