

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 October 2020

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

Decision (including any steps ordered)

1. The complainant requested information from the Home office about submissions as set out in paragraph 353 of the Immigration Rules, which they received and processed in the years 2017/18 to 2019/20. The Home Office had failed to provide a substantive response to this request by the date of this notice.
2. The Commissioner's decision is that the Home 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 Home Office to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Home 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

5. On 2 July 2020, the complainant wrote to the Home Office and requested information in the following terms:
- "For the years 2017-2018, 2018-2019 and 2019-2020*
- 1. Please provide me with the total number of further submissions made under the Immigration Rules paragraph 353 in each year.*
 - 2. Please provide a break down for the outcomes of the cases referred to above. I request information regarding the total numbers of cases submitted that have been:*
 - a. granted refugee leave or humanitarian protection;*
 - b. granted any other form of leave to remain;*
 - c. recognised as a fresh claim and granted an in-country right of appeal;*
 - d. refused without a right of appeal;*
 - e. awaiting a decision as of 1 June 2020*
 - 3. For each of the years referred to in question 1, please provide me with the total number of fresh claims submitted under paragraph 353 where pre action protocol correspondence was received, and the number of judicial reviews lodged."*
6. The Home Office acknowledged the request on 6 July 2020 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 21 September 2020 to complain about the failure, by the Home Office, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Home Office on 5 October 2020 to highlight the outstanding response. She requested that the Home Office respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.

9. The scope of this notice and the following analysis is to consider whether the Home Office has complied with section 10 of the FOIA.

Reasons for decision

10. 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.*

11. 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.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

13. 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.*"

14. 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 Home Office has breached section 10 of 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@justice.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
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