

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 July 2021

Public Authority: Ministry of Defence
Address: Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Defence ("MOD") relating to the joint service manual of the law of armed conflict (JSP 398). By the date of this notice the MOD had not provided a substantive response to the request.
2. The Commissioner's decision is that the MOD has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the MOD to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The MOD 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 18 March 2021, the complainant wrote to the MOD via the What Do They Know website and requested information in the following terms:

"Freedom of Information Act 2000

Please provide the following information

- 1. A dated list of editions of JSP 398 and any changing document titles.*
 - 2. A copy of the extant edition of JSP 398"*
6. Whilst the MOD did not acknowledge this request, the complainant has provided evidence which shows that the request sent to the MOD's published email address. Therefore, the Commissioner has assumed that the request was received by the MOD.
7. On 2 May 2021 and 27 May 2021, as the complainant had not received a response, she wrote to the MOD to ask for an update on the status of her request. By the date of this notice the MOD had not provided a substantive response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 4 June 2021 to complain about the MOD's failure to respond to her request.
9. The Commissioner contacted the MOD on 22 June 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. The Commissioner also contacted the complainant on 22 June 2021 to explain that the MOD had been given 10 working days from that date within which to provide a response to their request.
11. By the date of this notice, the complainant had not received a substantive response to her information request.
12. The scope of this notice and the following analysis is to consider whether the MOD has complied with section 10 of the FOIA.

Reasons for decision

13. Section 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.

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. The MOD did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the MOD has breached section 10 of the FOIA.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Deirdre Collins
Senior Case Officer
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Wilmslow
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