

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 12 August 2021

**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 from the Home Office about 14 complaints made regarding staff behaviour, investigated by Serco. By the date of this notice the Home Office has not issued a substantive response to this request.
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 provide 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 10 June 2021, the complainant wrote to the Home Office and requested information in the following terms:

*"1. For the 14 staff behaviour complaints investigated by Serco, please can you provide:*

*a. A copy of each completed complaint form. I understand these will likely be DCF 9 forms completed by detainees but could also be in letter form on plain paper, or a Security Incident Report completed by another staff member. If the form had to be translated into English, please provide a copy of the original form and the English translation.*

*b. If not specified in the form, please specify the date each complaint was submitted.*

*c. A copy of any written report which was completed by the investigating officer, detailing process and conclusion of their investigation into each complaint.*

*d. A copy of the written response sent to the complainant detailing the investigation, findings and outcome.*

*e. For each complaint, please specify the outcome for the staff involved (eg. dismissal, final written warning, advice and guidance, resignation or redundancy, reinstatement subject to training and performance review).*

*1. For each of the three staff behaviour complaints dealt with by the Home Office's Professional Standards Unit, please can you provide:*

*a. A copy of the form completed for each complaint. I understand these will likely be DCF 9 forms completed by detainees but could also be in letter form on plain paper, or a Security Incident Report completed by another staff member. If the form had to be translated into English, please provide a copy of the original form and the English translation.*

*b. Please specify the date each complaint was submitted, if not specified in the form.*

*c. A copy of the full report sent to the Head of Detention Operations on the conclusion of the investigation, setting out whether the complaint has been found to be substantiated, partially substantiated or unsubstantiated.*

*d. If any criminal allegations were reported to the police, provide the crime number.*

*e. A copy of the written response sent to the complainant detailing the investigation, findings and outcome.*

*f. For each complaint, please specify the outcome for the staff involved (eg. dismissal, final written warning, advice and guidance, resignation or redundancy, reinstatement subject to training and performance review).*

*I understand the information requested in questions 1 and 2 may be redacted for personal information but I ask that you redact only exempted information and justify the use of those exemptions.*

*If this request is too wide or unclear, I would be grateful if you could contact me as soon as possible, as I understand that under the Act you are required to advise and assist requesters. If any of this information is already in the public domain, please can you direct me to it, with page references and URLs if necessary."*

6. The Home Office acknowledged the request on 9 July 2021. To date, a substantive response to the request has not been issued.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 12 July 2021 to complain about the Home Office's failure to respond to their request.
8. The Commissioner has considered whether the Home Office has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

### **Reasons for decision**

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9. 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."*

10. 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*".
11. On 14 July 2021 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Home Office has failed to respond to the complainant.
13. 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**

14. 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](mailto:grc@justice.gov.uk)

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

15. 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.
16. 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**

**Phillip Angell**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**