

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 October 2021

Public Authority: Department of Health (Northern Ireland)
Address: C5
Castle Buildings
Stormont
Belfast
BT4 3SQ

Decision (including any steps ordered)

1. The complainant requested information which the Department of Health had received from the Northern Ireland Covid-19 Strategic Intelligence Group on face coverings.
2. The Commissioner's decision is that the Department of Health ("the DoH") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the DoH to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, in accordance with its obligations under the FOIA, to the request.
4. The DoH 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 31 July 2021, the complainant wrote to the DoH and requested information in the following terms:

"As per the Executive directing me, please can the Department provide the recommended advice it received from the Northern Ireland COVID-19 Strategic Intelligence Group on face coverings as per the below statement on 21st May 2020:

"The Executive recently announced that people consider wearing a face covering in places where there are difficulties social distancing, such as on public transport or in retail environments. This advice was recommended by the Northern Ireland COVID-19 Strategic Intelligence Group".

<https://www.health-ni.gov.uk/news/depart...>

Please can the Department also provide details of the Northern Ireland COVID-19 Strategic Intelligence Groups overall role and also define its role in implementing face covering messaging.

Finally, please also provide details (not limited to but for example name, job title, public body, advisor) of all members - past and present who contribute/d directly or indirectly - that defines position and involvement within the Northern Ireland COVID-19 Strategic Intelligence Group."

6. The DoH has not acknowledged the request, nor has it provided a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 26 August 2021 to complain about the failure, by the DoH, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the DoH on 14 September 2021 to highlight the outstanding response. She requested that the DoH respond to the request within 20 working days.
9. The scope of this notice and the following analysis is to consider whether the DoH 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 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.*"

12. 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 DoH has breached section 10 of the FOIA.

Other matters

13. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

14. Whilst the Commissioner is alert to the pressures experienced by the DoH, she must balance this against the information rights of the complainant.

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: 0203 936 8963

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

Michael Lea
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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