

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2021

Public Authority: Parliamentary and Health Service Ombudsman
Address: Millbank Tower
30 Millbank
London
SW1P 4QP

Decision (including any steps ordered)

1. The complainant requested information about a performance management framework which offers pay progression to caseworkers. By the date of this notice the Parliamentary and Health Service Ombudsman ("the PHSO") had not issued a substantive response to this request.
2. The Commissioner's decision is that the PHSO 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 PHSO to take the following step to ensure compliance with the legislation.
 - The PHSO must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The PHSO 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

5. On 19 August 2021, the complainant wrote to the PHSO and requested information in the following terms:

"I understand your caseworkers are incentivised through a performance management framework, which offers pay progression to caseworkers who continue to perform to expectation over a number of years.

I am writing to you under the Freedom of Information Act 2000 ("the Act") to request a copy of the said performance management framework, and all documents you hold in this respect."

6. The PSHO acknowledged the request on 19 August 2021, and again on 8 September 2021. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 September 2021 to complain about the PHSO's failure to respond to their request.
8. The Commissioner has considered whether the PHSO has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

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 11 October 2021 the Commissioner wrote to the PHSO, 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 PHSO has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the PHSO did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the PHSO 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
Website: 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

Catherine Fletcher
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF