

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 December 2021

Public Authority: Foreign, Commonwealth and Development Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant has requested information from the Foreign, Commonwealth and Development Office (FCDO) about Lord Lebedev.
2. The Commissioner's decision is that the FCDO has breached section 10 of the FOIA by failing to respond to the request within 20 working days.
3. The Commissioner requires the FCDO to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with the FOIA.
4. The public authority 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. The complainant had previously requested a copy of the letter requesting permission from the Russian government for Lord Lebedev to be allowed to hold the title "Lord Lebedev of Siberia" and any response received granting this permission.
6. The FCDO originally confirmed that it held information falling within the scope of the request and this engaged section 37 of the Act. The FCDO

then confirmed on 9 July 2021 that it did not hold any information falling within the scope of the request and apologised for the error.

7. On 13 August 2021, following an internal review, the FCDO confirmed that it did not hold any information falling within the scope of the request. The FCDO explained that it had located information which engaged section 37 but having considered the specific wording of the request, it had determined that this information did not fall within the scope of the request.

8. On 13 August 2021, the complainant wrote to the FCDO and requested information in the following terms:

"Thank you very much for your response.

Please could you provide a copy of all this material initially located in response to my original request, before being deemed to be out of scope? From the description it seems like it would be relevant to my area of interest.

Please process this as a fresh request for information".

9. On 23 August 2021, the FCDO acknowledged the request and confirmed that it was aiming to respond by 17 September 2021.

10. On 20 October 2021, the complainant chased a response from the FCDO.

11. On 25 October 2021, the FCDO wrote to the complainant and confirmed that the request was being handled by the Honours Secretariat and gave the reference number 2021/21440. The FCDO apologised for the delay in providing the response and confirmed that it was awaiting a response from a key stakeholder whose views were integral to the response. The FCDO explained that it had impressed upon the stakeholder the importance of providing a response to the complainant and that this was understood, however, its ability to exert pressure beyond that is restricted as the stakeholder in question is not an arm of the Government.

12. On 25 October 2021, the complainant disputed that the consultation was a valid reason for the delayed response. The complainant set out that while third parties may be consulted, the decision on disclosure is the sole responsibility of the FCDO. The complainant considered that if reasonable efforts to contact the third party had been made, then FCDO had fulfilled its requirements and a decision on disclosure must be made. The complainant confirmed that if a response was not issued in the next few days, they would complain to the Commissioner.

13. On 10 November 2021, the complainant contacted the FCDO again for a response.

Scope of the case

14. On 22 November 2021, the complainant contacted the Commissioner to complain about the FCDO's failure to respond to their request.
15. The Commissioner wrote to FCDO on 27 November 2021 and asked it to provide its response within the next 10 working days.
16. The complainant contacted the Commissioner on 13 December 2021 to confirm that they had still not received a response to their request. The Commissioner did not receive a response from the FCDO.
17. The Commissioner considers the scope of this investigation is to establish whether the FCDO has complied with its obligations under the FOIA in respect of its lack of a substantive response to the request.

Reasons for decision

18. 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 requests, and

(b) if that is the case, to have that information communicated to him".

19. Section 10 of the FOIA states that responses to requests made under the FOIA must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt"*.
20. 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 FCDO has breached section 10 of the FOIA.
21. The Commissioner requires the FCDO to issue a substantive response in accordance with the FOIA.

Right of appeal

22. 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

23. 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.
24. 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

Victoria Parkinson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF