

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 June 2022

Public Authority: The Foreign, Commonwealth and Development Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information from the Foreign, Commonwealth and Development Office (FCDO) relating to the awarding of the Queen's honours. By the date of this notice the FCDO had not issued a substantive response to this request.
2. The Commissioner's decision is that the FCDO has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires the FCDO to take the following step to ensure compliance with the legislation.
 - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information, if held, or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. The FCDO 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 16 February 2022, the complainant wrote to the FCDO and requested information in the following terms:

“Please provide any type of handbook or forms relating to the award of Queen’s Honour’s in the Overseas List for which the FCDO is responsible.

This should include forms which Lord Lieutenants or other departments complete to validate honours as well as staff handbook or guidance on processing of these honours.

You will note previous ICO judgements relating to the cabinet office where there is a clear public interest that documents be released relating to honours to allow transparency and confidence in the honours system.

Please also give details of the committee or individuals who sift and validate potential honours nominations which may have come directly from the public.”

6. The FCDO wrote to the complainant on 16 March 2022 and stated that it was extending the time to respond to the request in order to complete its public interest test.
7. The FCDO stated that it was considering the public interest test in line with section 10(3) of the FOIA. It stated that it was currently assessing the public interest test in relation to section 37 (communications with Her Majesty and the awarding of honours).

Scope of the case

8. The complainant contacted the Commissioner on 13 April 2022 to complain about the delay in the FCDO’s consideration of the public interest test.
9. On 21 March 2022 the Commissioner wrote to the FCDO, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. By the date of this notice, the FCDO had not issued a substantive response to the request.
10. The scope of this notice and the following analysis is to consider whether the FCDO has complied with its obligations in relation to section 17 of the FOIA.

Reasons for decision

11. Section 1(1) of 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."

12. Section 10(1) of 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".

13. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.

14. Although the FOIA does not define what constitutes a reasonable time, the Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days. This means that the total time spent dealing with the request should not exceed 40 working days, unless there are exceptional circumstances. A public authority would need to fully justify any extension beyond 40 working days.

15. In this case, the total time taken by the FCDO to respond to this request has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest test within a reasonable timeframe, the FCDO has not complied with section 17(3).

16. The FCDO is now required to finalise its public interest considerations under section 17(3) of the FOIA and respond to the complainant.

Right of appeal

17. 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

18. 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.
19. 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF