

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 June 2022

Public Authority: Foreign, Commonwealth and Development Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information about an article published by The Herald. By the date of this notice the Foreign, Commonwealth and Development Office ("the Foreign Office") had not issued a substantive response to this request.
2. The Commissioner's decision is that the Foreign Office has breached section 10(1) of 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 Foreign Office to take the following step to ensure compliance with the legislation.
 - the Foreign Office must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Foreign 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 1 March 2022, the complainant wrote to the Foreign Office and requested information in the following terms:

“I understand that the FCO were concerned by the publication by the Herald Scotland outlining details of a document allegedly sourced from Jordan that had information relevant to the Pan Am 103 bombing. This article was published on their website on the 1st June 2012. I would like all documents and correspondence concerning this story and the FCO's conversation with them to be released to me.”
6. The Foreign Office responded to the request on 14 March 2022 stating that Section 12 of FOIA, the appropriate costs limit, was engaged.
7. The complainant wrote back to the Foreign Office on 14 April 2022 restricting the scope of their request in the following terms:

“Let's restrict the scope of the search from Feb-June 2012 if that helps.”
8. To date, a substantive response has not been issued in relation to the refined request of 14 April 2022.

Scope of the case

9. The complainant contacted the Commissioner on 24 May 2022 to complain about the Foreign Office's failure to respond to their request.
10. The Commissioner has considered whether the Foreign Office has complied with its obligations in relation to the time for compliance at section 10(1) of 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. On 6 June 2022 the Commissioner wrote to the Foreign Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
14. Despite this intervention the Foreign Office has failed to respond to the complainant.
15. From the evidence provided to the Commissioner in this case, it is clear that the Foreign Office did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Foreign 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 FOIA.

Right of appeal

16. 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

17. 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.
18. 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF