

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 September 2022

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant requested information about Civil Service employees who had disclosed a disability or long-term health condition. By the date of this notice the Cabinet Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the Cabinet 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 Cabinet Office to take the following step to ensure compliance with the legislation.
 - The Cabinet Office must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Cabinet 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 16 June 2022, the complainant wrote to the Cabinet Office and requested information in the following terms:

"I would like to know:

1. What proportion or percentage of employees in the Civil Service have disclosed a disability or long-term health condition to their line manager/employer?
2. What proportion or percentage of employees have had adjustments made for them in order to help them do their job and have had these adjustments recorded in a formal capacity e.g. through a Personal Adjustment Plan or Risk Assessment?"

6. The Cabinet Office did not acknowledge the request.

Scope of the case

7. The complainant contacted the Commissioner on 17 August 2022 to complain about the Cabinet Office's failure to respond to their request.
8. The Commissioner has considered whether the Cabinet Office has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. 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."

10. 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".

11. On 25 August 2022 the Commissioner wrote to the Cabinet Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. On 1 September 2022 the Cabinet Office contacted the Commissioner stating that it did not have any record of the request as it could find no record of the email address to which the request had been sent. Therefore the Cabinet Office stated it would take the request as having been received on 25 August 2022, when the Commissioner first forwarded it a copy.
13. The Commissioner agreed with this approach, thus setting the 20 working day deadline to 23 September 2022. Despite this intervention the Cabinet Office has failed to respond to the complainant.
14. From the evidence provided to the Commissioner in this case, it is clear that the Cabinet Office did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Cabinet 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

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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