

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 October 2022

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information from the Home Office about muster point staff briefings ahead of the cancelled Rwanda charter flight on 14 June 2022. By the date of this notice the Home Office had not issued a substantive response to this request.
2. The Commissioner's decision is that the Home Office 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 Home Office to take the following step to ensure compliance with the legislation.
 - Having confirmed that information is held within the scope of the request: either disclose the requested information or issue a refusal notice in accordance with the requirements of section 17 of FOIA.
4. The Home 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 27 June 2022, the complainant wrote to the Home Office and requested information in the following terms:

"I am writing to request information under the Freedom of Information Act 2000.

BACKGROUND

I understand that detention custody staff (DCOs) and escort staff (DCO(E)s) will have had verbal briefings at one or more muster points prior to removing detainees from their rooms, inside Immigration Removal Centres, to take them on board the Rwanda charter flight on 14 June 2022 prior to its cancellation.

I understand these must point briefings may have taken place in, or near to, the following sites:

- Brook House IRC
- Harmondsworth IRC
- Boscombe Down

QUESTIONS

Please can you provide:

1. Audio recordings of all muster staff point briefing(s) which took place ahead of the Rwanda charter flight on 14 June 2022. I understand this may be redacted for personal information, but I ask that you redact only exempted information and justify the use of those exemptions. I also kindly remind you that the time taken for redactions does not usually contribute towards the cost cap under FOI.

1. The total number of staff who attended each briefing; the time it was held and the duration of the briefing."

6. The Home Office acknowledged the request on 28 June 2022.
7. On 26 July 2022, the Home Office wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations.
8. On 24 August 2022, the Home Office wrote the complainant again to apologise for the delay in providing a response.

Scope of the case

9. The complainant contacted the Commissioner on 25 August 2022 to complain about the delay in the Home Office's consideration of the public interest test.
10. On 30 August 2022 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 20 working days. To date, a substantive response has still not been provided.
11. The Commissioner has considered whether the Home Office has complied with its obligations in relation to section 17 of the FOIA.

Reasons for decision

12. 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.”
13. 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”.
14. 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.
15. Although 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.
16. In this case, the total time taken by the Home Office 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 within a reasonable time frame, the Home Office has not complied with section 17(3).

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

Right of appeal

18. 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

19. 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.
20. 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