

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 January 2022

Public Authority: Department of Health and Social Care

Address: 1st Floor North
Victoria Street
London
SW1 H0EU

Decision (including any steps ordered)

1. The complainant requested information from the Department of Health and Social Care ("the DHSC") regarding the handling of their recent press enquiries to the DHSC press team. By the date of this notice the DHSC had not issued a substantive response to this request.
2. The Commissioner's decision is that the DHSC has breached section 10(1) of the 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 DHSC to take the following step to ensure compliance with the legislation.
 - The DHSC must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The DHSC 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 1 July 2021, the complainant wrote to the DHSC and requested information in the following terms:

"Please can you answer the following FOI request;

1 - Please can you provide a copy of all correspondence held regarding the handling of my recent press enquiries to the DHSC press team.

Please limit the search to correspondence relating to the following press requests:

A - Press request sent on the 16th June 2021 re: P14 Medical face shields and subsequently followed up with further questions and requests for updates on the 21/06/21 and 22/06/21 and 24/06/21.

B - Press request sent on the 28th June 2021 re: URGENT request - Lord Bethell - Undisclosed meeting.

Both requests were lodged with the DHSC press team via email.

I look forward to receiving a response to my META request within 20 working days."

6. The DHSC acknowledged the request on 30 July 2021 and apologised for the delay in responding. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 1 December 2021 to complain about the DHSC's failure to respond to their request.
8. The Commissioner has considered whether the DHSC has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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 request, and

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

10. Section 10(1) of the 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 13 December 2021, the Commissioner wrote to the DHSC, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
12. Despite this intervention the DHSC has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the DHSC did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the DHSC 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 the FOIA.

Right of appeal

14. 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

15. 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.
16. 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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