

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 January 2023

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

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Home Office relating to its guidance on processing requests for information.
2. The Home Office initially refused to comply with the request.
3. The Commissioner's decision is that the Home Office breached sections 1(1)(a) (general right of access) and 10(1) (time for compliance) of FOIA by failing to provide a valid response to the request within the statutory timeframe of 20 working days.
4. The Commissioner requires no steps to be taken as a result of this decision.

#### **Request and response**

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

“Under the FOIA, PRA, and RPSI, I respectfully request all

a. electronic records

b. that provide or constitute guidance, instructions, time estimation data or methods, response templates, indices of data or systems of records available, documentation of search fields and capabilities, manuals, training, or the like, related to handling requests from members of the public, internal reviews, ICO proceedings, or

Information Tribunal proceedings under the DPA, FOIA, GDPR, PRA, or RPSI ("information requests")

c. directly accessible to, and used by, officials directly responsible for information requests

d. who work for the Home Office, including its component entities.

Abbreviations:

DPA Data Protection Act

SAR Subject Access Request under DPA

FOIA Freedom of Information Act

GDPR General Data Protection Regulation

PRA Public Records Act

RPSI Re-use of Public Sector Information Regulations".

6. The Home Office responded on 7 February 2022, refusing the request, telling the complainant that the request does not meet the requirements for a request for information under section 8(1) (request for information) of FOIA.
7. The complainant expressed dissatisfaction with that response on 14 February 2022.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 28 February 2022, challenging the Home Office's decision to refuse to comply with the request.
9. During the course of the Commissioner's investigation, the Home Office revisited its handling of the request. It acknowledged that, in the circumstances of this case, the request is a request for information as per section 8 of FOIA, and the complainant was entitled to receive a formal response, which it provided.
10. The complainant remained dissatisfied, raising a number of issues which are outside the scope of the Commissioner's remit.
11. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part I of FOIA.

12. In this case, while the Home Office initially disputed that the name the requester provided met the requirements of section 8, it subsequently revised its position.
13. The Commissioner has considered whether, at the time of the request, the Home Office complied with its obligations in relation to the duty to confirm or deny (section 1(1)(a) of FOIA) and in relation to the time for compliance (section 10(1) of FOIA).

## **Reasons for decision**

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14. 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.”

15. 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”.
16. The Commissioner notes that once the Home Office had revised its position regarding section 8, it responded to the complainant’s request promptly. However, it did not accept, at the time of the request, that the request constituted a valid request for information under FOIA that required a substantive response.
17. In the circumstances, the Commissioner finds that the Home Office breached sections 1(1)(a) and 10(1) of FOIA.

## **Right of appeal**

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Laura Tomkinson  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**