

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

### **Decision notice**

**Date:** 13 March 2023

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

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

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1. The complainant has requested information from the Home Office in relation to letters being sent to individuals who are being relocated to Rwanda. The Home Office has cited section 22 of FOIA – information intended for future publication.
2. The Commissioner's decision is that the Home Office has correctly engaged section 22 of FOIA and that the balance of the public interest favours maintaining the exemption. However, as the Home Office failed to provide a response to the request within 20 working days, it has breached section 10(1) of FOIA.
3. The Commissioner does not require the Home Office to take any steps as a result of this Decision Notice.

### **Request and response**

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4. On 12 May 2022, the complainant wrote to the Home Office and requested information in the following terms:  
  
"Please can you tell me how many letters have gone out, to the most recent date available, to people targeted for relocation to Rwanda."

I also require the precise wording of the letter and do not require personal details as part of this.”

5. The Home Office responded on 27 July 2022. It stated that the information in relation to part 1 of the request was withheld under section 22 of FOIA – information intended for future publication. For the second part of the request, it explained that the letters are unique to the individual and, as such, to release such information, even in a redacted format, would be a breach of the UK GDPR and as a consequence, it was withhold the information under section 40(2) of FOIA – personal information.
6. Following an internal review the Home Office wrote to the complainant on 31 October 2022. It stated that it upholds its original position. It also noted that the complainant had only raised concerns regarding the application of section 22 of FOIA.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 14 November 2022 to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of this complaint is to determine if the Home Office has correctly engaged section 22 of FOIA. The Commissioner will also look at the timeliness of the response from the Home Office.

## **Reasons for decision**

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### **Section 22 – information intended for future publication**

9. Section 22 of FOIA says that information is exempt information if:

*“(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not)*

*“(b) the information was already held with a view to such publication at the time when the request for information was made, and*

*“(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in (a).”*

10. Section 22 is a qualified exemption which means it is subject to the public interest test.
11. In this case, the Home Office has clearly explained in its responses that, although there is not a set date for publication, there is an intention to publish it at the end of the year.
12. The Commissioner considers that the requested information was clearly held by the Home Office at the time the request was made, and that it intends to publish the information.
13. As the Commissioner is satisfied that the exemption was applied correctly in this case, he has gone on to consider the balance of the public interest test.

### **Public interest test**

#### Public interest in disclosing the information

14. The Home Office acknowledges that there is a public interest in the disclosure of information to ensure departmental transparency and accountability.
15. The Home Office recognises that there is a general public interest in providing information to enable the public to understand decisions which may affect them.
16. The Home Office also recognises that there is a specific public interest in enabling access to information about those individuals who have sought asylum in the United Kingdom and who are being considered under the Migration and Economic Development Partnership with Rwanda for potential relocation to that country. For these reasons, the Home Office says that there is an intention to publish the information in the future.

#### Public interest in maintaining the exemption

17. The Home Office has explained that it is in the public interest to ensure that the publication of official information is a properly planned and managed process.
18. The Home Office has advised that it must ensure that the information intended for publication meets the standards and requirements set for departmental publications. It says it would not be in the public interest to release such information prior to meeting such standards.
19. The Home Office has argued that publication before the planned date, in response to an individual FOI request, would undermine the Home Office

pre-planned publication procedures and its ability to use staff resources in a way that avoids undermining reasonable publication timescales.

Balance of the public interest

20. The Commissioner considers that there is a public interest in the Home Office being able to publish the information, as it would promote transparency, especially for those who are being considered under the process.
21. While the Commissioner accepts that there is a public interest in openness and transparency, he is satisfied that it would undermine the Home Office's process for publication, as well as take staff away from their normal day to day roles.
22. The Home Office was therefore correct to apply section 22 to this request.

**Section 10(1) – time for compliance**

23. 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".
24. The complainant sent their request for information on 12 May 2022 and a response was not received until 27 July 2022. As such, this exceeded the 20 working days to respond and therefore is a breach of section 10 of FOIA.

## Right of appeal

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25. 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)

26. 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.
27. 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**