

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 November 2023

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

Decision (including any steps ordered)

1. The complainant submitted a 'meta request' to the Home Office, for a record of the then Home Secretary's Qualified Person's opinion and for the agreement to extend the response time, in relation to their previous request.
2. The Commissioner's decision is that, on the balance of probabilities, the Home Office does not hold any further information within the scope of the request and has therefore complied with section 1(1) of FOIA.
3. The Commissioner does not require further steps as a result of this decision notice.

Background

4. On 17 March 2023, the complainant submitted the following information request to the Home Office:

"This is a request for information held relating to the invitations to media organisations to accompany the Home Secretary on a visit to Rwanda this evening.

If you could provide all information held relating to any discussions or decision to invite the specific media organisations that have been invited to accompany the Home Secretary, and all information held relating to any discussions or decision to not invite any other media organisations not invited-such as but not exclusive to the BBC, Daily Mirror, Guardian, I, Independent etc.

If you could also provide a copy of each invite. You can of course remove any personal information of individuals and civil servants below the applicable grade."

5. On 24 May 2023, the Home Office provided a response in which it disclosed information in relation to the media invites and withheld some information under section 36(2)(b)(i) of FOIA.
6. Upon receiving this response, the complainant submitted an internal review on 26 May 2023 and on 3 August 2023, the Home Office provided its internal review response in which it maintained its original position, and found that section 40(2) was engaged for some of the information within scope of the request.

Request and response

7. On 6 June 2023, the complainant wrote again to the Home Office and requested information in the following terms:

"Many thanks for your delayed response.

It seems that the department is failing to uphold the legislation as you are unable to confirm that you and the SOS (Secretary of State) have met their legal obligations or been willing to clarify the response which clearly shows the SOS has not met her obligations.

If the department does not believe that the 18th May communication is not a request for information mentioned then if you could provide under FOI:

- the record of the SOS opinion
 - the SOS agreement to extend the response time.”
8. A response was provided on 30 June 2023, in which the Home Office disclosed the information it held, within scope of the request, with redactions made under section 40(2) of FOIA.
 9. Upon receiving this response, the complainant requested an internal review on 8 August 2023, and on 11 September 2023, the Home Office provided its internal review response, in which it maintained its original position, and confirmed that no further information is held, within scope of the request.

Scope of the case

10. The complainant contacted the Commissioner on 25 October 2023 to complain about the way their request for information had been handled.
11. As the complainant has informed both the Home Office and the Commissioner that their complaint centres on the belief that further information is held, and they do not seem to dispute the application of section 40(2), the Commissioner will therefore not be investigating this exemption.
12. Therefore, the Commissioner will decide whether, on the balance of probabilities, the Home Office has provided all the information within scope of the request.

Reasons for decision

Section 1 (Held/Not Held)

13. 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.

14. The Commissioner has sought to determine whether, on the balance of probabilities, the Home Office holds further information within scope of the complainant's request.
15. In its initial response, the Home Office provided two emails which showed that the then Home Secretary had given her approval to exempt the previous requested information under section 36 of FOIA, and had approved to extend the time to respond, under the Public Interest Test (PIT).
16. In its internal review response, the Home Office confirmed that it had consulted with the business area that had originally handled the request, and that the responses given, which were shared via the Home Secretary's Private Office, had proved that the then Home Secretary had given her approval as the Qualified Person.
17. The Commissioner notes the complainant's comments that the Qualified Person's opinion should contain the minimum information, as designated by the ICO, and that the exemption should have been engaged before the PIT was applied.
18. However, the Commissioner considers that the scope of this particular request is regarding whether there was a record of the then Home Secretary giving their opinion and agreement to extend the response time, rather than whether it was detailed enough. That former point is not within the scope of this notice.
19. Therefore, on the balance of probabilities, the Commissioner is satisfied that the Home Office does not hold any further information falling within scope of the complainant's request and that it has complied with section 1(1) of FOIA.

Right of appeal

20. 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

21. 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.
22. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF