

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 May 2024

Public Authority: Department of Health and Social Care
Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant requested information from the Department of Health and Social Care (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory timeframe of 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The public authority must take this step within 30 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 19 December 2023, the complainant wrote to the public authority and requested information in the following terms:

“noting that it is a criminal offence to deliberately conceal information relating to an FoIA request, please could you disclose to

me all Lord Bethell's SMS/WhatsApp correspondence for the period August-October 2020?

He clearly still has access to that correspondence given recent social media statements, and despite claims to have "lost" his mobile devices.

Please could you also disclose to me the date on which that correspondence was furnished to the NCA?"

Reasons for decision

6. 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."

7. 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".

8. On 19 April 2024 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

9. The public authority has informed the Commissioner that it is in the process of retrieving the requested information. This has been the reason for the delay that has occurred. However, as of the date of this notice, the public authority has not issued a response to the request

10. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority 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 FOIA.

Right of appeal

11. 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

12. 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.
13. 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

Roger Cawthorne
Team Manager
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Wilmslow
Cheshire
SK9 5AF