

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 May 2024

Public Authority: Ministry of Defence

Address: Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information from the Ministry of Defence (the public authority). By the date of this notice the public authority had not issued a revised 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 revised response to the request within the statutory timeframe of 20 working days. The public authority had affirmed that a fresh response would be provided in the internal review it conducted on 6 March 2024.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a revised 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 10 January 2024, the complainant wrote to the public authority and requested information in the following terms:

“The Aldershot Standing Orders (page 7) carries reference to supporting documentation. I am requesting copies of the following:

 1. Land Forces Standing Order No 3202. Reporting of Incidents and Matters of Public Interest During Training.
 2. JSP 907, Use of the Defence Training Estate.
 3. Register of Risk for Aldershot Ranges Training Areas and Misc. Training Facilities.
 4. Map GSGS 6500 1:25,000 Edition 1, Aldershot Training areas”
6. The public authority responded on 6 February 2024 and confirmed that the information request had not been processed. The public authority explained that it had exercised its right under section 17(6) to refuse the request, following a previous section 14(1) response provided to the complainant on 13 April 2022.
7. Following a request for one, the public authority conducted an internal review on 6 March 2024. It advised the complainant that their present enquiry should not be cross-referenced with the previous refusal notice served in April 2022.
8. The public authority assured the complainant that a fresh response would be provided as quickly as possible but no later than 5 April 2024. By the date of this notice, the public authority had not provided a revised response.

Reasons for decision

9. 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.”

10. Section 10(1) of FOIA states that a public authority must comply with its obligations under section 1(1) promptly and "not later than the twentieth working day following the date of receipt".
11. The public authority initially relied on section 17(6) of FOIA to refuse to issue any form of response to the request. However following an internal review, the public authority has accepted that it was not entitled to rely on this provision. Consequently the public authority is not currently relying on any exemption, but nor has it provided the requested information. The public authority either needed to comply with section 1(1) or issue a refusal notice. At the date of this decision, it had done neither.
12. On 26 April 2024 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a revised substantive response to the complainant's request within 10 working days.
13. Despite this intervention the public authority has failed to respond to the complainant.
14. 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 issue a fresh response to the request in accordance with FOIA.

Right of appeal

15. 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

16. 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.
17. 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
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