

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 17 January 2018

**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 regarding the Daniel Morgan Independent Panel (DMIP).
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as it has failed to give a substantive response to the request within the reasonable timeframe specified by section 10(3).
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The Home Office must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The public authority must take these steps within 35 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 the Act and may be dealt with as a contempt of court.

#### Request and response

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5. On 6 July 2017, the complainant wrote to the Home Office and requested information in the following terms:  
*"I understand the Home Office remains responsible for processing FoIA requests relating to the Daniel Morgan Independent Panel (DMIP)."*

*DMIP was instituted in May 2013. On the DMIP web site, DMIP originally stated that "The Panel hopes to present its Final Report to the members of Daniel Morgan's family and the Home Secretary in the Autumn of 2016".*

*Last year I asked you to disclose accounting & progress reporting information relating to the independent panel to me. In your answers you told me that, "The Panel hopes to present its Final Report to the members of Daniel Morgan's family and the Home Secretary in early 2017, after which, it will be made available to the public."*

*Could you therefore disclose to me;*

- 1) The present status of the Daniel Morgan independent panel Final Report*
- 2) The date when the report will be made available to each of the Morgan family, the Home Secretary, the Prime Minister, the Metropolitan Police, journalists, the alleged murderers, and the general public*
- 3) All project plans, financial performance, or progress reports made to the Home Office by the DMIP (as referenced in the Management Statement on the DMIP web site, and confirmed to exist in your response to my previous requests)*

*Note that none of the information requested above requires you to disclose any evidence that was submitted to the panel, nor any personal information relating to the parties involved."*

6. The Home Office responded on 6 July and said it aimed to give a full response by 3 August 2017.
7. On 21 July 2017 the Home Office contacted the complainant again to advise him that his request was being considered under the exemptions at 31(1)(c), information whose disclosure would prejudice the administration of justice, and 22(1), information intended for future publication. As these are qualified exemptions the Home Office said they would need to consider the public interest test and now aimed to provide a full response by 21 August 2017.
8. On the 21 August 2017 the Home Office sent a further apology to the complainant for the delay in responding to his request.
9. Despite the complainant reminding the Home Office numerous times that their response is overdue at the date of this decision notice a substantive response has not been issued.

## Scope of the case

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10. The complainant contacted the Commissioner on 30 August 2017 to complain about the way his request for information had been handled.
11. Following receipt of the complaint the Commissioner contacted the Home Office, reminding it of its responsibilities and asking it to respond to the complainant within 10 working days.
12. Despite this intervention the Home Office has failed to respond to the complainant.

## Reasons for decision

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13. Section 10(1) of the FOIA states that an authority must comply with section 1(1) of the FOIA '...promptly and in any event not later than the twentieth working day following the date of receipt'. However, section 10(3) enables an authority to extend the 20 working day limit up to a 'reasonable' time in cases where the public interest test attached to the application of a qualified exemption is being considered.
14. The FOIA does not define what constitutes a 'reasonable' extension of time. It is the view of the Commissioner that an authority should normally take no more than an additional 20 working days to consider the public interest test, meaning that the total time spent dealing with the request should not exceed 40 working days.
15. The Commissioner has found that the time taken to produce a substantive response to this request considerably exceeds the 40 working days and is therefore not reasonable. She has therefore decided that the Home Office has breached section 10(1) of the FOIA.

## Right of appeal

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16. 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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

17. 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.
18. 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 .....**

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**