

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

### **Decision notice**

**Date:** 15 September 2021

**Public Authority:** Health and Safety Executive

**Address:** Redgrave Court  
Merton Road  
Bootle  
Merseyside  
L20 7HS

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

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1. The complainant requested information from the Health and Safety Executive (HSE) relating to modifications taking place at a specific oil site. By the date of this notice, the HSE had not provided a substantive response to the request.
2. The Commissioner's decision is that the HSE has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the HSE to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The HSE 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 1 July 2021, the complainant wrote to the HSE and requested information in the following terms:

*"I would like to request information under the Freedom Of Information Act. It concerns the [name redacted] Oil Site at [address redacted].*

*In an announcement to the stock exchange on 30th June 2021 [name reacted] included the following statement regarding the [name redacted] oil site "We are carrying out modifications at the site to comply with The Control of Major Accident Hazards regulations (lower tier), as well as other regulations. Liaison continues with the Health and Safety Executive and the Environment Agency ("EA") to ensure the [name redacted] site satisfies these regulations."*

*Would you please tell me:*

- 1) why The Control of Major Accident Hazards regulations (lower tier) apply,*
  - 2) as well as these regulations what other regulations are the modifications being carried out to comply with,*
  - 3) what modifications are being required at the site,*
  - 4) what is the reason for the modifications, and*
  - 5) whether the EA or HSE wrote to [name redacted] regarding the modifications. If you did write to them could I please have a copy of the letter(s)."*
6. The HSE wrote to the complainant on 5 July 2021 to acknowledge the request.
7. On 2 August 2021, 5 August 2021, 20 August 2021 and 27 August 2021, as the complainant had not received a response, he wrote to the HSE to ask for an update on the status of his request.
8. The HSE wrote to the complainant on 27 August 2021 to provide him with an update on the status of his request. By the date of this notice, the HSE had not provided the complainant with a substantive response to his request.

## Scope of the case

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9. The complainant contacted the Commissioner on 11 August 2021 to complain about the HSE's failure to respond to his request.
10. The Commissioner contacted the HSE on 31 August 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 31 August 2021 to explain that the HSE had been given 10 working days from that date within which to provide a response to their request.
12. The complainant has provided evidence that he has received an acknowledgement from the HSE but, by the date of this notice, had not received a substantive response to his information request.
13. The scope of this notice and the following analysis is to consider whether the HSE has complied with section 10 of the FOIA.

## Reasons for decision

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14. Section 1 of the 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.*

15. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
16. The HSE did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the HSE has breached section 10 of the FOIA.

## Right of appeal

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17. 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)

18. 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.
19. 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**