

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 February 2013

Public Authority: Department for Communities and Local Government

Address: Eland House
Bressenden Place
London
SW1E 5DU

Decision (including any steps ordered)

1. The complainant has requested information relating to "Portas Pilots". The Department for Communities and Local Government (DCLG) provided an initial response on 7 September 2012, explaining that it was considering and collating the relevant information. The Information Commissioner's decision is that DCLG did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.
2. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - issue a response under the FOIA.
3. 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

4. On 9 August 2012, the complainant wrote to DCLG and requested information in the following terms:

"Would you please provide me with any e-mails between (a) Ministers, their private offices and special advisors, (b) the team within DCLG responsible for the Portas Pilots, and (i) Mary Portas and her representatives, (ii) the production teams working with Mary Portas since 1st January 2012".

5. DCLG responded on 7 September 2012. It stated that it held no relevant communications from or to special advisers in the DCLG during the specified period and confirmed. It also confirmed that, in relation to Ministers and their offices (with the possible exception of the Minister for Housing and Local Government), it did not hold any relevant information. DCLG confirmed that it was considering and collating any relevant information held in respect of the Minister for Housing and Local Government and the team of officials dealing with the Portas Pilot. It stated that it would give a substantive response as soon as these activities had been completed.

Scope of the case

6. On 9 October 2012 the complainant contacted the Commissioner to complain about the way their request for information had been handled. At the time of submitting their complaint, DCLG had not issued a substantive response to the request.
7. The Commissioner wrote to DCLG on 16 October 2012 and directed it to respond to the request within 10 working days. When DCLG failed to issue a response the Commissioner subsequently wrote on a number of further occasions advising it to respond to the request. At the time of writing, DCLG has not responded to the request.
8. The complainant asked the Commissioner to issue a decision notice which would require DCLG to issue a response as a statutory step.

Reasons for decision

9. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
10. In this case, whilst DCLG acknowledged the request, it has failed to provide the complainant with the requested information within the statutory time limit. The Commissioner has therefore found that DCLG has breached section 10(1) of the FOIA. At paragraph 2 above DCLG is now required to respond to the request.

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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Andrew White
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Wycliffe House
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