

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2013

Public Authority: Foreign and Commonwealth Office

Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information relating to the Iraq Inquiry. By the date of this notice the FCO had yet to provide a substantive response to this request and the Commissioner's decision is that, in so doing, the FCO has breached the requirements of sections 10(1) and 17(3) of the FOIA.
2. The Commissioner requires the FCO to take the following steps to ensure compliance with the legislation.
 - Provide to the complainant a full response to his information request. The requested information should either be disclosed, or the complainant should be provided with a refusal notice giving a full explanation as to why the information will not be disclosed, including any public interest considerations.
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 1 March 2013, the complainant wrote to the FCO and requested information in the following terms:

*"I would like to make a request for information under the Freedom of Information Act. The request relates to paragraph 8 of John Williams' statement to the Iraq Inquiry
<http://www.iraqinquiry.org.uk/media/50500/JohnWilliams-witness-statement.pdf>*

I would like the documents referred to in this paragraph:

- 1) the note that Mr Williams "produced in March 2002, setting out ideas for a media campaign"*
- 2) the media strategy produced by Mark Matthews*
- 3) the covering note for the strategy written by Mr Williams, if it is not the same note as 1), above."*

5. At the time of writing the FCO had yet to provide a substantive response to this information request.

Scope of the case

6. The complainant contacted the Commissioner on 31 May 2013 to complain about the failure of the FCO to respond substantively to his request and to ask that the Commissioner intervene to secure a full response

Reasons for decision

7. Section 1(1) of the FOIA provides 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."

8. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.

9. Under section 17(3) a public authority can, where it is citing a qualified exemption, extend the time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by a maximum of a further 20 working days, which would allow a public authority 40 working days in total.
10. In this case, whilst the complainant has been sent a number of responses informing him of a delay while the public interest is considered, the total time taken by the FCO has well exceeded 40 working days. As the Commissioner does not consider this to be a reasonable timescale he finds that the FCO has not complied with section 17(3). It follows that the FCO has breached section 10(1) in relation to its handling of this request.

Other matters

11. As well as finding above that the FCO is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the FCO should evidence from other cases suggest that there are systemic issues within the FCO that are causing delays.

Right of appeal

12. 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

13. 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.
14. 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

Jon Manners
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