

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 February 2014

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested information about fees remission in relation to immigration. The Home Office did not respond to the request within the 20 working day limit.
2. The Commissioner's decision is that the Home Office has breached section 10 as it did not respond to the complainant within the twenty working day limit. The Commissioner also considers that the Home Office has breached section 16 as it did not offer the complainant any advice or assistance.
3. The Commissioner does not require the Home Office to take any further steps.

Background

4. The complainant has made numerous requests to the Home Office (HO) relating to immigration.

Request and response

5. On the 31 January 2013 the complainant wrote to the HO requesting information.
6. The HO did not respond.

Scope of the case

7. The complainant contacted the Commissioner on 18 March 2013 to complain about the way his request for information had been handled. The complainant specifically complained about the non-response by the HO to his request of 31 January 2013.
8. During his investigation, the Commissioner noted that the complainant had also contacted the HO about its non-response. On 7 June 2013, the HO confirmed that it had not received the complainant's request but had obtained a copy of it from the 'WhatDoTheyKnow' website. The HO stated that it was handling the request as a matter of urgency and would provide a response no later than 3 July 2013. The HO also apologised for the difficulties the complainant had experienced.
9. The HO did not provide a response by 3 July 2013.
10. The Commissioner will consider the non-response of the HO to the complainant's request of 31 January 2013 and the lack of advice and assistance.

Reasons for decision

Section 1

11. (1) of FOIA states:

"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."

Section 10

12. Section 10 (1) of the FOIA states:

"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."

13. Initially there was some confusion as to whether the request was received by the HO. The request had been sent via the

'WhatDoTheyKnow' website. However, it generated an automated response from the HO, which explained that the email address in question was not in use. The Commissioner considers that the request was received by the HO for the purposes of the FOIA.

14. In order for the HO to comply with section 10(1) it should have responded to the complainant by 28 February 2013. The Commissioner notes that in a subsequent request for information of 8 April 2013 to the HO, the complainant stated that he had made the same request in January 2013. The HO answered that request and the complainant annotated his request on the 'WhatDoTheyKnow' saying that the request was successful.
15. The Commissioner therefore considers that the HO did eventually answer the 31 January 2013 request but breached section 10(1) as it not done so within the twenty working day limit.

Section 16 – Duty to provide advice and assistance

16. Section 16 (1) states:

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."

17. The Commissioner notes that in its automated response to the complainant's request the HO explained that the email address in question was no longer in use. However, the HO did not explain where new requests should be sent.
18. The Commissioner therefore considers that the HO has breached section 16.

Right of appeal

19. 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

20. 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.
21. 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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