

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 April 2015

Public Authority: The Foreign and Commonwealth Office

Address: King Charles Street

London

SW1A 2AH

Decision (including any steps ordered)

1. The complainant submitted a request to the Foreign and Commonwealth Office ('the FCO') for correspondence between the FCO and a number of Tony Blair's organisations. The FCO confirmed to the complainant that it holds information relevant to the request but it advised that further time was required to consider the public interest test. To date, the FCO has failed to provide the complainant with a substantive response. By failing to do so the Commissioner has concluded that the FCO breached section 17(3) of the FOIA.
2. The Commissioner requires the FCO to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with a substantive response to his information request. If the FCO decides to withhold any information then the complainant should be provided with a refusal notice giving a full explanation as to why the information will not be disclosed, including details of any public interest test 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 25 April 2013, the complainant wrote to the FCO and requested information in the following terms:

"Would you please provide me with copies of all correspondence, or records of oral conversations, between Tony Blair and the Foreign Office (i.e. the central department) between June 2009 and July 2012.

Please include in this request correspondence originating from, or sent to, representatives of Tony Blair's organisations:

Office of Tony Blair

Tony Blair Africa Governance Initiative

Tony Blair Faith Foundation

Government Advisory Practice/Policy Group

Please restrict this request to the following subject areas:

Middle East and North Africa

Sub-Saharan Africa

China

Europe

North America

Brazil

Mexico

Russia

Kazakhstan

South East Asia"

5. The FCO has contacted the complainant on several occasions in respect of the progress of his request. The most recent correspondence was a letter of 19 February 2015 apologising for "the lengthy delay in replying to your request".
6. The letter of 19 February 2015 confirmed that the FCO holds information relevant to the request "in relation to the Europe Directorate." The FCO estimated that it would require "an additional 20 days" to determine the balance of the public interest in relation to the exemptions at section 38 – Health and safety; and section 43 – Commercial interests. The FCO estimated that a substantive response would be provided by 19 March 2015.

Scope of the case

7. The complainant contacted the Commissioner on 19 February 2015 to complain about the way his request for information had been handled. He explained that since making his request he had received numerous letters referencing the public interest test and the requirement for further time. The Commissioner therefore proceeded to consider the time taken to determine the outcome of the public interest test.
8. The Commissioner wrote to the FCO on 9 March 2015 to inform it of the complaint.
9. The complainant informed the Commissioner on 27 March 2015 that the FCO had still not provided a response.

Reasons for decision

10. 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.'
11. 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.
12. Under section 17(3) a public authority can, where it is citing a qualified exemption, have a 'reasonable' extension of 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.
13. In the circumstances of this case, although the FCO has repeatedly informed the complainant of the delay while the public interest is considered, the total time taken 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).

Right of appeal

14. 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 123 4504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF