

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 December 2015

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

Decision (including any steps ordered)

1. The complainant requested several files listed by the National Archives, but retained by the Home Office. The Home Office failed to respond substantively to this request and the Commissioner finds that, in so doing, it breached sections 1(1) and 10(1) of the FOIA.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Respond to the request.
3. The Home Office 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 15 April 2015 the complainant wrote to the Home Office and requested the following files listed by the National Archives, but retained by the Home Office:

"HO 213/2067, HO 213/2068, HO 213/2069, HO 213/2070, HO 213/2073, HO 213/2044 – Home Office: Aliens Department: General

(GEN) Files and Aliens' Naturalization and Nationality (ALN and NTY Symbol Series) Files"

5. The Home Office failed to respond substantively to this request.

Scope of the case

6. The complainant contacted the Commissioner by letter dated 27 October 2015 to complain about the failure by the Home Office to respond substantively to his information request.
7. The ICO contacted the Home Office on 16 November 2015 to raise the issue of the complainant's information request. The Home Office was notified that, if it did not respond to the request within 10 working days from that date, a decision notice obliging it to respond would be issued.
8. The Home Office did not respond.

Reasons for decision

Sections 1 and 10

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "*not later than the twentieth working day following the date of receipt*".
10. In this case the Home Office has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 2 above the Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

11. As well as the finding above that the Home Office has breached the FOIA in this case, a record has been made of the failure to respond to the complainant's information request and this issue may be revisited in future enforcement action.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

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

Ben Tomes
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF