

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 August 2016

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

Decision (including any steps ordered)

1. The complainant has requested information relating to people transferred to the UK under the Dublin III regulations, which concern asylum applications.
2. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with section 10 of the FOIA in that it failed to provide a response to the request within the statutory time frame of 20 working days from receipt.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation.
 - Issue a response under the FOIA.
4. 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

5. On 6 April 2016, the complainant wrote to the Home Office and requested information in the following terms:

"1. The number of people transferred to the UK under the Dublin III regulations in each of the last 12 months.

2. *In the case of those transferred, whether they were transferred under: (i) articles 6 and 8, (ii) articles 9, 10 and 11, (iii) article 16 or (iv) article 17 of the Dublin III Regulations.*
 3. *What country they were transferred from.*
 4. *How many 'take charge requests' have been received by the Home Office for family reunification under the Dublin III regulations in the last 12 months."*
6. The complainant informed the Commissioner that the Home Office has not responded to the request.

Scope of the case

7. The complainant contacted the Commissioner on 31 May 2016 to complain about the failure by the Home Office to respond to this request.
8. The Commissioner contacted the Home Office on the 24 June 2016 asking it to respond to the complainant's request within 10 working days. The Home Office failed to respond to the request.

Background

9. The website Citizens Information¹, describes the Dublin III Regulation as follows:

"The [Dublin III Regulation](#) provides the legal basis for establishing the criteria and mechanism for determining the member state responsible for examining an asylum application lodged in one of the member states by a third country national or a stateless person. This mechanism is known as the Dublin procedure. The Dublin III Regulation applies to 32 countries which include the EU member states, Iceland, Norway, Liechtenstein and Switzerland."

1

http://www.citizensinformation.ie/en/moving_country/asylum_seekers_and_refugees/the_asylum_process_in_ireland/dublin_convention.html

Reasons for decision

Section 1 and 10

10. 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".
11. Therefore, in this case the Home Office has breached sections 1(1) and 10(1) by failing to respond substantively to the request within 20 working days. The Home Office is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

12. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Home Office to respond to the complainant's request. This issue may be revisited should evidence from other cases suggest that this is necessary.

Right of appeal

13. 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>

14. 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.
15. 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
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