

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 June 2017

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

Decision (including any steps ordered)

1. The complainant has requested information relating to Home office buildings and police stations previously used by UK Visas and Immigration (UKVI).
2. The Commissioner's decision is that although it has complied with section 17(1) in stating which exemption is to be relied upon, by failing to complete its public interest test considerations within a reasonable time period the Home Office has breached section 17(3) of the FOIA. The Commissioner has also found breaches of sections 1 and 10 of the FOIA.
3. The Home Office is required to issue a substantive response to the complainant's request, either disclosing the requested information or issuing a valid refusal notice as set out in section 17 of 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 24 November 2016, the complainant wrote to the Home Office and requested information in the following terms:

"Please provide a list of Home Office buildings and police stations previously used by the UKVI for reporting that are now no longer used, to where this service was relocated, and the date that this occurred. Please provide this information for the past 5 years."

Please provide the information in the following (or similar) manner:

- North Shields Home Office to Middlesbrough Home Office; date of relocation

- Bristol Trinity Road Police Station to Patchway Police Station; date of relocation"

6. The Home Office acknowledged the request on 20 December 2016, advising the complainant that it would need to consider the public interest test in relation to the disclosure of the requested information. It stated that it was considering the exemption at section 31(1)(e) of the FOIA. The Home Office stated that it would aim to provide a response by 19 January 2017.
7. On 20 February 2017 the Home Office provided the complainant with an update stating that it needed more time in which to consider the public interest in disclosure of the information.
8. On 30 March 2017, the Commissioner wrote to the Home Office asking it to respond to the complainant's request. At the date of this decision notice, the Home Office had yet to respond substantively to the request.

Scope of the case

9. The complainant contacted the Commissioner on 8 February 2017 to complain about the way his request for information had been handled.

Reasons for decision

Section 10 – time for compliance

Section 17 – refusal of request

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.
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. Section 17(3) states that if a public authority is relying on a qualified exemption, the time limit for compliance may be extended in order to consider the public interest in maintaining the exemption or disclosing the information. A public authority may take such time as is 'reasonable in the

circumstances', and must then either disclose the requested information or explain to the applicant why the public interest in maintaining the exemption outweighs the public interest in disclosure.

13. Although the FOIA does not define what a reasonable time is, the Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by up to a further 20 working days - which means that the total time spent dealing with the request should not exceed 40 working days. Any extension beyond 40 working days would require there to be exceptional circumstances, fully justified by the public authority.
14. In the circumstances of this case, although the Home Office has informed the complainant of the delay while the public interest is considered, the total time taken by the Home Office has significantly exceeded 40 working days. No reasons were given for the delay and the Commissioner believes this to be unacceptable. As the Commissioner does not consider this to be a reasonable timescale she finds that the Home Office has not complied with section 17(3).
15. The Home Office is required to conclude its consideration of the public interest test and either disclose the requested information or explain why the public interest in maintaining the exemption outweighs the public interest in disclosure of the information.

Other matters

16. As well as finding above that the Home Office 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 Home Office should evidence from other cases suggest that there are systemic issues within the Home Office which are causing delays.

Right of appeal

17. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF