

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 September 2017

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

#### Decision (including any steps ordered)

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1. The complainant has requested information from the Home Office regarding documents from the file: Defence (Readiness) Regulations; Part IV Miscellaneous.
2. The Commissioner's decision is that the Home Office has breached section 10(3) of the FOIA as it has failed to give a substantive response to this request within a reasonable timeframe.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - The Home Office must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. 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

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5. On 12 December 2016, the complainant wrote to the Home Office and requested information in the following terms:

*"...access to the file with the title: DEFENCE (READINESS) REGULATIONS; PART IV MISCELLANEOUS.*

*...copies of documents from this file which relate to*

*a) Draft Legislation, including any copy of the regulations*

*b) Refer to a system of "Regional government" in the event of an emergency (Note, this is not "local government" or "Devolved government" but a special system activated in the event of an emergency)."*

6. The Home Office acknowledged the request on 12 December 2016 and aimed to give a full response by 13 January 2017.
7. On 13 January 2017 the Home Office notified the complainant that the information requested was being considered under the exemptions in section 24 of the Act, which relates to prejudice to National Security, and that it needed time to consider the public interest test.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 26 April 2017 to complain about the way his request for information had been handled.
9. Following receipt of the complaint the Commissioner contacted the Home Office, reminding it of its responsibilities and asking it to respond to the complainant within 10 working days.
10. Despite this intervention the Home Office has failed to respond to the complainant.

### **Reasons for decision**

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11. Section 10(1) of FOIA states that an authority must comply with section 1(1) of the FOIA "...promptly and in any event not later than the twentieth working day following the date of receipt." However, section 10(3) enables an authority to extend the 20 working day limit up to a 'reasonable' time in any case where the public interest test attached to the application of a qualified exemption is being considered.
12. The FOIA does not define what constitutes a 'reasonable' extension of time. It is the view of the Commissioner however that an authority should normally take no more than additional 20 working days to consider the public interest, meaning that the total time spent time dealing with the request should not exceed 40 working days.

13. The Commissioner has found that the time taken to produce a substantive response to the request considerably exceeds the 40 working days and is therefore not reasonable. She has therefore decided that the Home Office has breached section 10(3) of the FOIA.

## Right of appeal

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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 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**