

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 September 2017

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

Decision (including any steps ordered)

1. The complainant has requested information from the Home Office regarding policies and information around fee-paid Entry Clearance Officers re-applying for posts they already hold.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as it has failed to give a substantive response to this request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Home Office must issue a 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

5. On 12 March 2017, the complainant wrote to the Home Office and requested the information set out in the attached annex.

6. The Home Office responded to the complainant and stated that *"I have been advised that the Home Office Business Partner will be responding to your request"*.

Scope of the case

7. The complainant contacted the Commissioner on 30 June 2017 to complain about the way his request for information had been handled.
8. 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.
9. Despite this intervention the Home Office has failed to respond to the complainant.

Reasons for decision

10. Section 10(1) of the FOIA states that
"Subject to subsections (2) and (3), 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."
11. As a response has not yet been provided the Commissioner finds that the Home Office has breached section 10(1) in failing to respond within 20 working days.

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: 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

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

Annex – information request

“Request for Information under the Freedom of Information Act 2000

This request is made as a result of the communication by email of Friday the 10th of March 2017 from Norleen Bryce of UKVI requesting current fee paid Entry Clearance Officers to re apply for posts which they already hold.

This request is made as a result of a lack of consultation and information leading up to this decision. I should point out that this request should be dealt with within twenty days of the receipt of this communication in line with ICO guidelines. Failure to comply within this time frame will result in the matter being reported to the Information Commissioner.

Information required (as per your email of 10/3/2017);

What is (are) the reason(s) for having to change the way in which short term resources are used?

What ‘detailed discussions’ (all details of times, dates, locations, persons present and full minutes of meetings required) took place leading up to this decision?

Who was (were) the representative(s) who were present at these meetings from your HR Legal Department and what advice/guidance/instruction was given by them (full minutes required)?

What options were left open to the decision makers?

Detail in full the ‘key driver’ for this decision and which Civil Service Commission Recruitment Regulations were contravened requiring this action?

With appointments to the Civil Service being based on merit after fair and open competition why was it deemed that a historical recruitment approach for some Fee Paid Officers did not comply with this requirement?

Why have some Fee Paid Officers been asked to reapply for posts when some, who were recruited at the same time and under the same circumstances, taking the same application and selection process, have not?

Please detail in full the FTA contractual arrangements under which Fee Paid Officers must be engaged?

Details are required as to why an embargo on communications was in place (emails not answered, no information fed out) following the initial communication by email to some Fee Paid Officers on 23rd February 2017? (Email sent by Norleen Bryce 1510hrs GMT 23/2/2017).

Why were no terms and conditions sent out with the above email and why was a demand made without providing said terms and conditions for Fee Paid Officers to accept said terms and conditions by 12 noon GMT on Friday 24th February 2017 (the communication stated that officers could not take up any further postings without accepting these terms by said time and date, less than twenty four hours after the email was sent)?

With regard to the following extract from the email sent by Norleen Bryce at 1152hrs on the 10th of March 2017:

'I understand that applying to the recruitment campaign when you were already on the FPO register may feel unjust but unfortunately, this is not within our control.'

What is the reason for this not being within the control of UKVI and under whose auspices is this situation under the control of?

What is the reason for changing the terms of Fee Paid Officers from a daily rate method of payment to pro rata salary of £25080, an actual reduction in pay?

I would remind you that this communication should be responded to within twenty days of the above date answering the above in full or giving a date when you will return a reply answering all points raised. Failure to do so will result in the matter being referred to the Information Commissioner.

I look forward to your acknowledgement of this notice and your prompt reply."