

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 September 2018

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

Decision (including any steps ordered)

1. The complainant requested information regarding immigration bail conditions.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Home Office to take the following step 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 Home Office must take this step 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 5 June 2018, the complainant wrote to the Home Office and requested information in the following terms:

- "1. Please confirm the number of individuals who were on temporary admission on IS.96 reporting forms as of 15 January 2018, prior to the introduction of the new immigration bail regime under the Immigration Act 2016.*
 - 2. Please confirm the number of individuals who have been issued with a Bail 201 form in January 2018, February 2018, March 2018, April 2018 and May 2018.*
 - 3. Please confirm the number of individuals who have been issued with a Bail 201 form containing a restriction stating 'You are not permitted to STUDY' in January 2018, February 2018, March 2018, April 2018 and May 2018.*
 - 4. Please confirm the number of individuals who have been re-issued with a Bail 201 form removing the restriction stating 'You are not permitted to STUDY' in January 2018, February 2018, March 2018, April 2018 and May 2018.*
 - 5. Please provide details of the process and criteria by which a decision is made to impose a restriction on an individual studying in their Bail 201 form.*
 - 6. Please provide details of the process and criteria by which a decision is made to inform a college, university or school that an individual is not permitted to study.*
 - 7. Please confirm whether since the introduction of the new immigration bail guidance on 9 May 2018 the Respondent has issued internal guidance or has put in place an internal procedure for reviewing how many individuals have been served with Bail 201 forms imposing restrictions on studying and whether any of these individuals should be reissued with Bail 201 forms without a restriction on studying."*
6. The Home Office acknowledged the request on the same day, stating that it aimed to provide a full response by 3 July 2018.
 7. On 4 July 2018 the complainant wrote to the Home Office to chase the response. The Home Office replied on 10 July 2018 apologising for its failure to respond within 20 working days, it did not provide a timescale for its response but said it would respond as soon as possible.

Scope of the case

8. The complainant contacted the Commissioner on 10 July 2018 to complain about the Home Office's failure to respond to their information request.
9. On 13 August 2018 the Commissioner wrote to the Home Office, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. Despite this intervention the Home Office has failed to respond to the complainant.

Reasons for decision

11. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

12. 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."*
13. From the evidence provided to the Commissioner in this case, it is clear that the Home Office did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Home Office has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Right of appeal

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

Website: 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

Andrew White
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