

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 23 January 2019

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

### Decision (including any steps ordered)

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1. The complainant requested information from the Home Office relating to the use of restraints during an incident.
2. The Commissioner's decision is that the Home Office has breached section 10(1) of the FOIA as 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

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5. On 18 May 2018, the complainant wrote to the Home Office and requested information in the following terms concerning six clients she is representing:

*"1. Records of any individual risk assessments undertaken prior to use of restraints;*

*2. Records of dynamic risk assessment undertaken at time of use of restraints and throughout period that they were applied;*

- 3. Record of the Duty Manager being notified of the use of restraints and any response;*
  - 4. Record of use of restraint (this should be comprehensive and an accurate note of actions that took place before, during and after the restraints were applied);*
  - 5. PER records;*
  - 6. Any clinical advice received during removal in particular on the use of restraints;*
  - 7. Copies of the Use of Force from which must be completed within 24 hours after the incident;*
  - 8. Copy of Tascor's senior manager's assessment of whether the use of restraints was reasonable, proportionate and necessary;*
  - 9. Any and all notes of any handover briefing between custody and escort staff;*
  - 10. All records of training provided to the escorting staff in relation to the use of handcuffs;*
  - 11. Any and all video footage from inside and outside the bus."*
6. On 27 September 2018, the complainant wrote to the Home Office again to provide a further copy of her request, and to request an update.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 6 December 2018 to complain about the Home Office's failure to respond to her information request.
8. The Commissioner wrote to the Home Office on 19 December 2018, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Home Office has not responded to the complainant.

### **Reasons for decision**

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10. Section 1(1) of the 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 the information communicated to him.*

11. 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."*
12. 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 requests in accordance with the FOIA.

### **Other matters**

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13. It seems to the Commissioner that some of the information being requested may be the personal data of the clients who the complainant is representing. The FOIA gives an individual the right to access recorded information other than their own personal data. Therefore, it may be more appropriate for the complainant to request her clients' personal information under the terms of the Data Protection Act 2018.

## 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** .....

**Carolyn Howes**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**