

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2019

Public Authority: Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant has requested the names and affiliations of the persons who comprised the Government Commercial Organisation's (GCO) Commercial Assessment and Development Centre's (ADC) accreditation committee as at 1 August 2017. The Cabinet Office did not respond to the request, therefore the Commissioner's decision is that the Cabinet Office has failed to comply with section 10(1) of the FOIA.
2. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request: Firstly, confirm or deny that the requested information is held (or, if the Cabinet Office decides to refuse to confirm or deny that any of the requested information is held, then a refusal notice should be issued that complies with the requirements of section 17 of the FOIA).
 - Secondly, and subject to the above, if the information is held the Cabinet Office must either disclose the requested information or, if it wishes to withhold any information, issue a refusal notice in relation to the information it wishes to withhold and disclose the remainder.
3. The Cabinet 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 FOIA and may be dealt with as a contempt of court.

Request and response

4. On 11 April 2019, the complainant wrote to the Cabinet Office to make a subject access request (SAR). In the same email, he requested information in the following terms:

"Under the Freedom of Information Act, please could you also provide a list of the individuals (names and affiliations) who comprised the ADC's Accreditation Committee as at 1st August 2017."

5. The Cabinet Office acknowledged receipt of the complainant's SAR on 11 April 2019 but did not issue a substantive response to the request for information under the FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 17 June 2019 to complain about the failure of the Cabinet Office to respond to his request.
7. In line with her usual practice, the Commissioner wrote to the Cabinet Office on 21 June 2019 advising it to respond to the request within 10 working days of receipt of her letter.
8. The Cabinet Office contacted the Commissioner on 21 June 2019 stating that *"The Cabinet Office has not received an FOI request from [the complainant] on the date in your email. There was, however, a Subject Access Request from [the complainant] on that date, which I believe is being processed within the Cabinet Office. However, Subject Access Requests are not the responsibility of the FOI Team."*
9. The Commissioner contacted the Cabinet Office again on 24 June 2019 to point out that, although the complainant's original 11 April 2019 correspondence contained a SAR, it also contained an explicit request for information under the FOIA – which thus required an appropriate response.
10. The complainant contacted the Commissioner again on 9 July 2019 stating that the Cabinet Office had not responded to his request. Given that the response remains outstanding, despite her intervention, the Commissioner considers that a decision notice is appropriate in this case.

Reasons for decision

11. 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, have that information communicated to him."

12. Section 8(1) of the FOIA states that:

"In this Act any reference to a "request for information" is a reference to such a request which-

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested."

13. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) *"promptly and in any event not later than the twentieth working day following receipt of receipt of the request."*

14. The Commissioner is satisfied that the complainant submitted a valid request for information. Despite the Commissioner's intervention the Cabinet Office has failed to confirm or deny that it holds the requested information, and has neither disclosed the requested information nor provided a valid refusal notice.

15. The Commissioner therefore finds that the Cabinet Office has failed to comply with section 10(1) of the FOIA in failing to respond to the request within 20 working days.

Right of appeal

16. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Sarah O’Cathain
Senior Case Officer

Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF