

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 09 September 2020

**Public Authority:** Parliamentary and Health Service  
Ombudsman

**Address:** Millbank Tower  
30 Millbank  
Westminster  
London  
SW1P 4QP

### Decision (including any steps ordered)

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1. The complainant requested disclosure of fees paid by the Parliamentary and Health Service Ombudsman in relation to a court case.
2. The Commissioner's decision is that Parliamentary and Health Service Ombudsman ("the Ombudsman") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Ombudsman to take the following steps to ensure compliance with the legislation:
  - Issue a substantive response, under the FOIA, to the request.
4. The Ombudsman 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

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5. On 15 November 2019, the complainant wrote to the Ombudsman and requested information in the following terms:

*"It is in the public interest for you to fully disclose the total payments you made in external legal fees including travel expenses in relation to the case. I now formally make a request for such disclosure."*

The request was made in relation to a legal case between the complainant and the PHSO. The case relates to the defence of a claim made by the PHSO against the complainant.

6. The Ombudsman acknowledged the request on 15 November 2019 but had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 3 January 2020 to complain about the failure, by the Parliamentary and Health Service Ombudsman, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Ombudsman on 11 February 2020 to highlight the outstanding response. She requested that the Ombudsman respond to the request within 10 working days. This correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 5 April 2020 to request a decision notice considering the Ombudsman's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether Ombudsman has complied with section 10 of the FOIA.

## Reasons for decision

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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, to have that information communicated to him.*

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

*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. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Parliamentary and Health Service Ombudsman has breached section 10 of the FOIA.

## Right of appeal

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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@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)

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** .....

**Ben Tomes**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**