

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 September 2021

Public Authority: Department of Health and Social Care

Address: 39 Victoria Street
London
SW1H 0EU

Decision (including any steps ordered)

1. The complainant requested information from the Department for Health and Social Care relating to emails between the UK Government and Mr Matt Hancock's private email account(s). By the date of this notice the Department for Health and Social Care had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the Department for Health and Social Care 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 Department for Health and Social Care to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The Department for Health and Social Care 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 30 June 2021, the complainant wrote to the Department for Health and Social Care via the WhatDoTheyKnow website and requested information in the following terms:

"As a matter of public interest following recent national news coverage that Former Minister Matt Hancock used his private email account(s) to conduct government business, in particular during the coronavirus pandemic I write to make a request under the Freedom of Information Act.

As the Department will be aware private emails where in relation to official business (of any type) can be the subject of a FoIA. This has always been the case, as has been the law surrounding S77 which makes it a criminal offence to "deleting or concealing information with the intention of preventing its disclosure".

I therefore ask for access under the FoIA to all emails within the period January 1st 2020 to 28th June 2021 relating to any UK Gov't Business from and to Mr Hancocks private emails - this should include emails from other governmental emails, parliamentary emails, business email addresses and private email addresses."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 28 July 2021 to complain about the failure by the Department for Health and Social Care to respond to his request.
8. The Commissioner has considered whether the Department for Health and Social Care has complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

Reasons for decision

9. 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.*

10. 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.”
11. On 1 September 2021, the Commissioner wrote to the Department for Health and Social Care, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the Department for Health and Social Care has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Department for Health and Social Care did not deal with the request for information in accordance with the FOIA. The Commissioner finds the Department for Health and Social Care 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Michael Lea
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