

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 9 November 2021

**Public Authority:** The Information Commissioner's Office  
**Address:** Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Note: This decision notice concerns a complaint made against the Information Commissioner ('the Commissioner'). The Commissioner is both the regulator of the FOIA and a public authority subject to the FOIA. She is therefore under a duty as regulator to make a formal determination of a complaint made against her as a public authority. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice. In this notice the term 'ICO' is used to denote the ICO dealing with the request, and the term 'Commissioner' denotes the ICO dealing with the complaint.

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the ICO relating to correspondence between the ICO and DCMS about the new Data Sharing Code.
2. The Commissioner's decision is that the ICO breached section 10(1) of the FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days. No steps are required.

## Request and response

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3. On 29 May 2021, the complainant requested information via email, in the following terms:

*"Hi - please could you disclose information consisting of correspondence between ICO and DCMS on the new Data Sharing Code.*

*In case this engages section 12 FOIA, please could you advise me who in your office was or is tasked with or primarily dealt with DCMS on this matter, and restrict the search to correspondence between that person or persons and DCMS, taking place in 2021."*

4. The ICO responded to the request for information on 28/10/2021.

## Scope of the case

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5. The complainant contacted the Commissioner on 22 September 2021 to complain about the ICO's failure to respond to their request within the statutory time frame of the FOIA.
6. The Commissioner contacted the ICO on 14 October 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
7. The Commissioner also contacted the complainant on 14 October 2021 to explain that the ICO had been given 10 working days from 14 October 2021 within which to provide a response to their request.
8. The ICO responded to the request on 28 October 2021.
9. The Commissioner has considered whether the ICO has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

## 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 that 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 ICO did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the ICO has breached section 10(1) by failing to respond to the request within 20 working days.

## Right of appeal

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13. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. 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.
15. 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  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**