

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 June 2021

**Public Authority:** Department for Transport  
**Address:** Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

**Complainant:**

**Address:**

### Decision (including any steps ordered)

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1. The complainant has requested information relating to the peer-reviewed study which led to the imposition of compulsory face coverings on public transport.
2. The Commissioner's decision is that the Department for Transport (DfT) has breached section 10(1) (time for compliance with request) of the FOIA. This is because the DfT failed to confirm to the complainant whether it held the information that fell within the scope of their request within the statutory timeframe of twenty working days following the date of receipt.
3. As the DfT has now confirmed to the complainant that it does not hold the requested information, the Commissioner does not require any further steps to be taken.

### Request and response

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4. The complainant wrote to the DfT and requested information in the following terms:

*"Please can you provide me with the name and findings of the peer-reviewed study which led to the imposition of mandatory face coverings on public transport."*

5. The DfT responded on 10 July 2020 and explained that it had received 190 separate requests within 24 hours for similar information. The DfT explained to the complainant that it believed that the aforementioned requests, including the complainant's, made up a campaign and that it was applying section 14 (vexatious requests) to all requests that it considered part of this campaign.
6. Within its correspondence of 10 July 2020, the DfT explained that it recognised the public interest in the requested information and provided the complainant with 13 articles relating to face coverings and their efficiency.
7. Following an internal review the DfT wrote to the complainant on 28 August 2020 and upheld its original position.
8. In line with her processes, the Commissioner contacted the DfT on 15 March 2021 and asked it to consider changing its response to the request or provide full and final arguments as to why it believed section 14 of the FOIA applied.
9. Following this correspondence the DfT wrote to the complainant on 3 June 2021 and stated that it does not hold the requested information, nor did it hold it at the time of the complainant's request.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 2 September 2021 to complain about the way their request for information had been handled.
11. Since the DfT has now confirmed that it does not hold the requested information, the Commissioner considers the scope of her investigation limited to whether the DfT has breached section 10(1) (time for compliance with request) of the FOIA.

### **Reasons for decision**

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#### **Section 10 – time for compliance with the request**

12. Section 1(1) (general right of access to information held by public authorities) 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.*

13. Section 10 time (for compliance with the request) 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 the date of receipt."*

14. The DfT confirmed to the complainant that it did not hold the requested information almost a year after the complainant made their original request. In accordance with section 10 of the FOIA, the DfT should have done so within twenty working days following the date of receipt.
15. Therefore the Commissioner's decision is that the DfT has breached section 10(1) (time for compliance with request) of the FOIA.
16. As the DfT has now confirmed to the complainant that it does not hold the requested information, no further action is required from the DfT in relation to this matter.

### **Other matters**

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17. The Commissioner acknowledges that the DfT received what it considers to be a campaign of requests and to respond would cause a disproportionate level of disruption during a time at which the authority was already facing significant front-line pressures. However, upon receipt of a request for information, a public authority must give consideration to its obligations under section 1 of the FOIA before seeking to engage an exemption such as section 14.

## Right of appeal

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18. 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)

19. 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.
20. 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 .....**

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