

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 May 2023

Public Authority: Foreign, Commonwealth & Development Office
Address: King Charles Street
London
SW1A 2AH

Decision (including any steps ordered)

1. The complainant requested information from the Foreign, Commonwealth & Development Office ("FCDO") about FCDO controls regarding the appropriate use of public money. By the date of this notice FCDO had not issued a substantive response to this request.
2. The Commissioner's decision is that FCDO has breached section 10(1) of 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 FCDO to take the following step to ensure compliance with the legislation.
 - FCDO must provide a substantive response to the request in accordance with its obligations under FOIA.
4. FCDO must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 15 January 2023 the complainant wrote to FCDO and requested information in the following terms:

“Background:

On 14th January 2023 it was revealed that Boris Johnson put £4,445.07 dinner in New York on government credit card. Mr Johnson took his entourage of 24 out for a meal plus booze at New York diner Smith & Wollensky’s while attending the United Nations General Assembly on 21st September 2021. When it came to paying up, the Foreign Office Government Procurement Card was handed over.

Foreign Office minister David Rutley said: “Expenditure was subject to normal FCDO controls and an appropriate use of public money.”

FoI request: Please kindly provide a copy of the rules that Foreign Office minister David Rutley was talking about. Since the taxpayer is paying they have a right to see what these are”

6. FCDO acknowledged the request on 15 and 16 January 2023. To date, a substantive response has not been issued.

Reasons for decision

7. Section 1(1) of 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.”

8. Section 10(1) of 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”.
9. On 4 May 2023 the Commissioner wrote to FCDO reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.

10. Despite this intervention FCDO has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that FCDO did not deal with the request for information in accordance with FOIA. The Commissioner finds that FCDO 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 FOIA.

Right of appeal

12. 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-regulatorychamber

13. 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.
14. 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