

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

### **Decision notice**

**Date:** **22 September 2023**

**Public Authority:** **Department for Science, Innovation and Technology**

**Address:** **100 Parliament Street  
Westminster  
London  
SW1A 2BQ**

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

---

1. The complainant requested information from the Department for Science, Innovation and Technology (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of FOIA.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
  - Having confirmed whether or not information is held within the scope of the request: either disclose the requested information, if held, or, to the extent that information is to be withheld, issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. The public authority 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 June 2023, the complainant made the following request for information to the public authority:

"We are instructed by Big Brother Watch ('BBW') to request information from you under the Freedom of Information Act 2000 ('FOIA') regarding the activities of the Counter-Disinformation Unit ('CDU'), which BBW understands<sup>1</sup> to have operated from within your Department (and previously from within your predecessor department, the Department for Digital Culture Media and Sport).

BBW requests:

- i. Clarification as to the specific legal power relied upon for the activities of the CDC;
- ii. Copies of all policies governing the work of the CDU, including any past policies and dates of any revisions; and
- iii. An explanation of the mechanisms in place to ensure compliance with the policies governing the work of the CDC.

Without limiting the generality of its request for policies governing the CDU's work, BBW is particularly interested in:

- i. Policies governing the types of issue which the CDU monitors and how it ensures these are restricted to 'disinformation narratives';
- iv. Policies governing the accumulation and analysis by the CDU of significant amounts of personal data in relation to specific individuals;
- v. Policies governing the circumstances under which content is referred to social media companies with a view to it being removed from platforms; and
- vi. How the CDU determines when it is 'possible' to anonymise personal data processed as part of its work.

If you consider that it is not possible to provide the information requested due to costs exceeding the limits in s.12 FOIA, please

provide advice and assistance as to how BBW can refine its request pursuant to s.16 FOIA.

---

<sup>1</sup> <https://www.gov.uk/government/news/fact-sheet-on-the-cdu-and-rru>"

6. On 13 July 2023, the public authority wrote to the complainant to explain that it held information relevant to the complainant's request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 36 of FOIA.

## 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. Section 17(3) of FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.
  10. FOIA does not define how long a reasonable time is. The section 45 Code of Practice on request handling states that "it is best practice for an extension to be for no more than a further 20 working days".<sup>2</sup> This means that the total time spent responding to a request should not exceed 40 working days unless there are exceptional circumstances.

---

<sup>2</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

11. On 30 August 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. To date, a substantive response has still not been provided.
12. In this case, the total time taken by the public authority has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the public authority has not complied with section 17(3).
13. The public authority is now required to finalise its public interest considerations under section 17(3) of FOIA and respond to the complainant.

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

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

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