

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2023

Public Authority: Department for Education
Address: Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Decision (including any steps ordered)

1. The complainant requested information from the Department for Education (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 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 the public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a substantive response to the request in accordance with its obligations under 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 18 September 2023, the complainant wrote to the public authority and requested information in the following terms:

“Please provide the number of emails sent by the Secretary of State since her appointment containing the words spelt out below. Please note, I have spelt the words using the phonetic alphabet so as to avoid triggering any filtering.

- 1) Foxtrot, Uniform, Charlie, Kilo
- 2) Foxtrot, Uniform, Charlie, Kilo, India, November, Golf

Please provide (redacted where appropriate) copies of these emails. Please ensure the recipient is clear in any email to other ministers or senior civil servants as per the Information Commissioners guidance on Requests for personal data about public authority employees.”

Reasons for decision

6. 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”.
7. On 24 November 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
8. Despite this intervention the public authority has failed to respond to the complainant.
9. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority 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

10. 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

11. 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.
12. 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

Roger Cawthorne
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Cheshire
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