



Case Reference: EA/2021/0246

First-tier Tribunal  
General Regulatory Chamber  
Information Rights

Decided without a hearing  
On 1 April 2022

Decision given on:

Before

TRIBUNAL JUDGE ANTHONY SNELSON  
TRIBUNAL MEMBER SUZANNE COSGRAVE  
TRIBUNAL MEMBER KATE GRIMLEY EVANS

Between

Ms PATRIZIA CIALFI

Appellant

and

INFORMATION COMMISSIONER

First Respondent

and

HOME OFFICE

Second Respondent

DECISION

The decision of the Tribunal is that the appeal is allowed and a Decision Notice substituted in the following terms:

1. The Appellant's request (as clarified) was not a valid request within the terms of the Freedom of Information Act 2000 ('FOIA'), s8(1)(c).

2. Accordingly, the Appellant was not entitled under FOIA, s1(1) to access to the information sought.

## REASONS

### *Introduction*

1. On 18 February 2020 the Appellant, Ms Cialfi, wrote to the Home Office requesting information under the Freedom of Information Act 2000 ('FOIA')<sup>1</sup> as follows:

**Two links have been provided for contact with the UK Visas and Immigration Department<sup>2</sup> of the Home Office: Central Operations:**

**[Details of the links were provided]**

**The former is a dead link. The latter does not provide an email address to the above department. Would you please provide an email address so that the above department can be contacted directly.**

We will refer to this communication as 'the request'.

2. On 19 February 2020, the Home Office advised Ms Cialfi that it would be treating the request as falling outside the scope of FOIA on the basis that it did not ask for recorded information.

3. On 20 February 2020, Ms Cialfi responded, challenging the Home Office's stance. Her message included:

**I have asked for a direct email contact ...**

4. Further exchanges followed culminating in the Home Office: (a) stating that the request would be treated as falling within the scope of FOIA; (b) attaching a link to a web page (on the gov.uk website) on which information relating to UKVI might be found; and (c) advising Ms Cialfi that (although the Department did run dedicated telephone helplines) there was no "direct email route for general [UKVI] inquiries."

5. On 24 September 2020 Ms Cialfi requested an internal review of the latest response from the Home Office stating:

**I did not say my enquiry was general, I asked specifically that you provide a contact email. It is known that the Home Office personnel have an email address. For this specific issue, I still require the email address of a specific member of your staff. Had I not needed a specific email address, I would not have asked.**

6. In a reply of 20 October 2020, the Home Office responded:

**You have stated in your request for an internal review that you 'require the email address of a specific member of your staff'. As you have not specified which member of staff you are seeking contact details**

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<sup>1</sup> All section numbers in these reasons refer to FOIA.

<sup>2</sup> Referred to hereafter as UKVI

**for, we do not consider this part of your request meets the requirements of section 8(1)(c) of the FOI Act which states that a request must describe the information requested.**

The Home Office also provided an email address for its (Department-wide) Public Enquiries team.

7. Dissatisfied, Ms Cialfi complained to the Commissioner, who proceeded to carry out an investigation.

8. By a decision notice dated 3 August 2021 ('the DN') the Commissioner determined that, on a balance of probabilities, the Trust did not hold information in addition to that already disclosed and that the Home Office had failed to respond to the request within the period prescribed by FOIA, s10. It is clear from her reasons that: (a) she interpreted the request as asking for an email address for use to enable the public to contact UKVI; and (b) she accepted the representations on behalf of the Home Office that no such email address existed.

9. By a notice of appeal dated 3 September 2021 Ms Cialfi sought to challenge the DN for<sup>3</sup>: (a) concluding that the Home Office did not hold information within the scope of her request; (b) failing to address the Home Office's alleged non-compliance with s17 FOIA; (c) failing to address the Home Office's alleged breach of s77 FOIA; and (d) failing to address her request for the Home Office's "case metadata".

10. In her response to the appeal dated 15 October 2021, prepared by Mr Richard Bailey, the Commissioner contended that the appeal should be allowed and a Decision Notice substituted to the effect that the request was invalid.

11. By a response on behalf of the Home Office dated 16 November 2021 Mr Eric Metcalfe, counsel, submitted that the Tribunal should determine the appeal as proposed by the Commissioner. Alternatively, it should dismiss the appeal for the reasons stated in the DN.

12. The matter came before us on 1 April 2022 for consideration on paper, the parties having agreed that it should be decided without a hearing. We had before us the open bundle of documents running to over 100 pages.

### *The applicable law*

13. By s1(1) FOIA enacts a general right in favour of a person making a request for information held by public authorities to be informed whether the authority holds the information and, if it does, to have the information communicated to him or her. The right depends in the first place on the request being legally valid. In particular, a request must "describe" the information requested (s8(1)). It should be construed by giving the words used, in their context, their natural meaning. 'Information' means information recorded in any form (s84).

14. The appeal is brought pursuant to the Freedom of Information Act 2000, s57. The Tribunal's powers in determining the appeal are delineated in s58 as follows:

- (1) **If on an appeal under section 57 the Tribunal considers –**
  - (a) **that the notice against which the appeal is brought is not in accordance with the law; or**

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<sup>3</sup> We adopt the summary of her grounds of appeal offered on behalf of the Home Office, which we find to be fair.

- (b) **to the extent that the notice involved an exercise of discretion by the Commissioner, that [she] ought to have exercised [her] discretion differently,**

**the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner, and in any other case the Tribunal shall dismiss the appeal.**

- (2) **On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.**

*Analysis and conclusions*

15. We do not question Ms Cialfi's evident frustration over the difficulty (as she sees it) of gaining access to UKVI. We accept, of course, that open, transparent and accessible government at all levels is not merely desirable, but necessary, in a properly functioning democracy. But the freedom of information legislation does not, and cannot, assist her in this case.

16. The facts are clear and not in dispute. As a matter of policy (on which it is not our place to comment), UKVI does not operate a system which enables service users to have direct email access to members of their staff. So a publicly accessible email address, as originally sought (on a fair reading of the request), did not exist and, but for the subsequent clarification, the Commissioner's 'not held' adjudication would have been unimpeachable.

17. The clarification provided by Ms Cialfi on 24 September 2020 was material. At that point it was made clear for the first time that she was asking to be supplied with the email address of a specific staff member (she did not mind who), so that she could communicate with that person. That was not a request which met the demands of FOIA, s8(1)(c) because (to state the obvious) asking for the email address of an unnamed person does not describe the information sought. Nor could the Home Office usefully seek clarification from Ms Cialfi: she was in no position to provide a name (or collection of names). We agree with the Commissioner that the clarified request amounted to asking to be assigned a dedicated caseworker. Seen in that way it is obviously untenable and might be judged an abuse of FOIA.

18. Our reasoning dictates the conclusion that the appeal succeeds on the technical ground that the 'not held' ruling should be replaced with a finding that the request (as clarified) was invalid. But this takes Ms Cialfi's case no further forward. For completeness, we will return briefly to the main grounds of appeal. We will adopt the lettering in para 9 above.

19. As to ground (a), we have explained why we think that the clarification provided in the application for review changed matters and warrants the substitution of a fresh decision notice. (As we have also noted, the Home Office's revised position, with effect from 20 October 2020, was that the request fell foul of s8(1)(c). The Commissioner came to share that view, which we hold to be correct, but only after these proceedings were instituted.) As to ground (b), there was no breach of s17. That section requires a public authority relying on a Part II exemption to serve a notice specifying the exemption relied upon. In any event, as already stated, the Home Office stated in terms that it relied on s8(1)(c) (not an exemption, but an explanation why the information requested would not be supplied). Turning to ground (c), we are surprised to see s77 raised. There is no possible basis for asserting that any breach of that section (concerned with criminal offences to do with altering or otherwise manipulating records) had, or might have, occurred. Ground (d) also goes nowhere. Apart from anything else, the Home Office's "case metadata" were not sought by the request as originally formulated or as later clarified.

*Disposal*

20. The appeal is allowed and a fresh Decision Notice substituted which avails Ms Cialfi no more than the original. No additional step is required.

(Signed) Anthony Snelson  
Judge of the First-tier Tribunal

Date: 25 April 2022  
Promulgated on : 26 April 2022