

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 October 2011

Public Authority: Office of the First Minister and Deputy First Minister

Address: Castle Buildings
Stormont Estate
Belfast
BT4 3SR

Decision (including any steps ordered)

1. The complainant requested information relating to various investigations carried out over three financial years.
2. The Information Commissioner's decision is that the Office of the First Minister and Deputy First Minister (OFMDFM) failed to comply with section 1(1)(a) promptly and within the statutory timelines for handling the request and in so doing breached section 10(1) of the FOIA.
3. The Information Commissioner requires OFMDFM to take the following steps to ensure compliance with the legislation:
 - Write to the complainant to confirm whether it holds the information and then disclose that information or issue a valid refusal notice under section 17 of the FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 23 September 2010, the complainant wrote to OFMDFM and requested information in the following terms:

"In relation to the past three financial years;-

- 1) Please advise the number of times that OFMDFM has undertaken joint investigations with CRC of any groups funded through CRC.*
 - 2) Please advise the reason for each investigation, the type of investigation and the outcome.*
 - 3) Please advise the nature/sector of each group investigated.*
 - 4) Please identify each group investigated. If OFMDFM believes it is exempt from this please supply all other information above anonymously, subject to a later appeal by myself on question 4"*
6. OFMDFM wrote to the complainant on 29 September 2010 in order to clarify one aspect of his request.
 7. On 29 September 2010 the complainant clarified his request in that his query related to investigations carried out of any and all groups funded through CRC.
 8. The Information Commissioner notes that to date OFMDFM have not provided a response either disclosing or refusing to disclose the requested information

Scope of the case

9. On 4 April 2011 the complainant contacted the Information Commissioner to complain about the way his request for information had been handled. In particular that he had not received a response to his request.
10. During the course of his assessment of the complaint the Information Commissioner contacted both OFMDFM and the complainant to clarify whether OFMDFM had responded to the request since the complaint had been made.
11. The Information Commissioner was informed by both parties that no response had been forthcoming.
12. The Information Commissioner asked OFMDFM for an explanation of its handling of the request together with copies of relevant documents.

13. The scope of the Information Commissioner's investigation is to establish whether OFMDFM has complied with its obligations under sections 1(1)(a) and 10(1) of the FOIA.

Reasons for decision

14. Section 1(1)(a) and 1(1)(b) of the FOIA deal with the general right to access information. Any person making a request for information is entitled to be informed whether the information is held and to have that information communicated to them unless the public authority issues a refusal notice under section 17(1) of the FOIA citing an appropriate exemption.
15. Section 10(1) of the FOIA makes provision for section 1(1) to be complied with no later than 20 working days following receipt of that request.
16. The Information Commissioner notes that the complainant made his request on 23 September 2010.
17. The Information Commissioner notes with concern that, apart from an attempt to clarify one of the parts of the request on 27 September 2010, OFMDFM has failed to respond to the request.
18. The Information Commissioner notes that at the time of writing this notice 12 months has lapsed since OFMDFM received the request and no response has been issued. This far exceeds the 20 working days allowed for.
19. Having failed to confirm that it holds the information within the statutory timeframe the Information Commissioner is satisfied that OFMDFM has failed to comply with its obligations under sections 1 and section 10 of the FOIA.

Other matters

20. The Information Commissioner notes that this complaint is one of four separate requests which OFMDFM has failed to respond to and which will each be dealt with by way of separate decision notices.
21. Prior to this decision the Information Commissioner has issued at least three decision notices in the previous six months which record the failure of OFMDFM to comply with FOIA in respect of timescales for

response. The Information Commissioner expects this pattern of non-compliance to be addressed by OFMDFM.

22. The Information Commissioner expects all requests to be responded to within 20 working days.

Right of appeal

23. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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

Jon Manners
Group Manager
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