

## **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)**

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1. The complainant has requested information about correspondence on a specific subject between Office of the First Minister and Deputy First Minister (OFMDFM) and other parties for the previous twelve months.
2. The Information Commissioner's decision is that the 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 the public authority 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

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

*"Please supply copies of all correspondence between OFMDFM and CRC in the past 12 months from today mentioning or relating to Families Acting for Innocent Relatives and/or Willie Frazer ie including all letters, emails memos, minutes and other documents"*

6. 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

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7. 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.
8. 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.
9. The Information Commissioner was informed by both parties that no response had been forthcoming.
10. The Information Commissioner asked OFMDFM for an explanation of its handling of the request together with copies of relevant documents.
11. The scope of the Information Commissioner's investigation is to establish whether OFMDFM has complied with its obligations under section 1(1)(a) and 10(1) of the FOIA.

## Reasons for decision

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12. 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.

13. 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.
14. The Information Commissioner notes that the complainant made his request on 23 September 2010.
15. The Information Commissioner notes with concern that, at the time of writing, over 12 months has lapsed since OFMDFM received the request and no response has been issued. This far exceeds the 20 working days allowed for.
16. Having failed to confirm whether it holds the information within the statutory timeframe the Information Commissioner is satisfied that OFMDFM has failed to comply with its obligations under section 1 and section 10 of the FOIA.

### **Other matters**

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17. 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.
18. 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.
19. The Information Commissioner expects all requests to be responded to within 20 working days.

## Right of appeal

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20. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

21. 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.
22. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**