

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 October 2012

Public Authority: Home Office
Address: 2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant requested information about 185 foreign prisoners as referred to by the Home Secretary at the time of his request. The Home Office did not respond to the request until 74 working days after receiving it. The complainant requested that a decision notice be issued by the Information Commissioner recording the delay.
2. The Information Commissioner's decision is that the Home Office has breached section 10(1) of FOIA by issuing its response late but, as a substantive response has been provided to the complainant, he does not require any remedial steps to be taken.

Request and response

3. On 11 June 2012 the complainant wrote to the Home Office and requested information in the following terms:

"I am writing to request information from the Home Office pursuant to the Freedom of Information Act 2000. The request relates to the Home Secretary's recent comments on foreign prisoners and Article 8 of the European Convention on Human Rights and Fundamental Freedoms. The information I seek is as follows:

- (a) *the 185 prisoners the Home Secretary mentioned, over what period did this cover?*
- (b) *for the same period in (a) above please provide the total number of Article 8 challenges the Home Office received from 'foreign prisoners'*

- (c) *for the same period in (a) above please provide the total number of foreign prisoners against who deportation proceedings were instigated*
- (d) *for the same period in (a) above please provide the total number of foreign prisoners who were deported from the United Kingdom.*

If you require any clarification or assistance on this matter then please do not hesitate to contact me on [contact details redacted]. I would expect the Home Office, in compliance with its section 16 duties, to contact me on either of the aforementioned contact methods should it be estimated that the request would exceed the 'appropriate limit' as set out in the relevant Regulations at the earliest opportunity."

Scope of the case

- 4. The complainant initially contacted the Information Commissioner on 15 August 2012 to complain about the way his request for information had been handled. He specifically asked the Information Commissioner to consider the fact that no substantive response had been provided.
- 5. The Information Commissioner subsequently wrote to the Home Office reminding of the need to respond to the request. He provided it with a copy of the request as he was unable to determine whether the Home Office had a record of the request and asked it to provide its response within 20 working days and advised the complainant of this.
- 6. The complainant then contacted the Information Commissioner to advise that he had now received a substantive response to his request. He forwarded a copy of the response with which he said he was satisfied. He requested that the Information Commissioner issue a decision notice to record the delay.
- 7. The scope of the Information Commissioner's investigation was therefore to consider whether there has been a breach of section 10(1) by the Home Office in its handling of the complainant's request.

Reasons for decision

- 8. Section 10(1) of the FOIA provides:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

9. The Information Commissioner notes that the Home Office provided a response on 17 August 2012, 74 working days following receipt of the request and well over the 20 working days allowed.
10. The Information Commissioner does not need to serve a decision notice in an individual case in order to use that case as evidence for future enforcement action; however, should a complainant request the Information Commissioner to issue a decision notice for a specific complaint he will do so.
11. The Information Commissioner finds that the Home Office breached section 10(1) of the FOIA in relation to the complainant's request and has ensured that the details of this case have been recorded by his enforcement team for future monitoring purposes.

Right of appeal

12. 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

13. 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.
14. 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