

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 August 2013

Public Authority: The Information Commissioner's Office (ICO)

Address: Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Decision (including any steps ordered)

1. The complainant requested ICO guidance and also the number of successful case reviews. The ICO provided the complainant with the requested information but it did not do so within the statutory time for compliance.
2. The Commissioner's decision is that the ICO has not complied with section 10(1) of the Freedom of Information Act 2000 (FOIA) in its handling of this request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 15 January 2013 the complainant requested information of the following description:

"your guidance on personal information held in an information storage/retrieval system, guidance on how to deal with DPA cases, guidance on how to deal with DPA case reviews and how many case reviews have been successful (as both a number and a percentage) in a) all of the ICO's history and b) that this case manager has dealt with."

He also made a subject access request at the same time.

5. On 12 February 2013 the ICO wrote to the complainant advising that it did not hold all of the case review figures as requested. The ICO sought confirmation that the complainant would be satisfied to have the case review figures provided for the last two financial years. The following day, the complainant confirmed that this would be satisfactory.
6. On 5 March 2013 the complainant wrote to the ICO to complain about the delay in providing its response, and making a further request which has been dealt with separately and is not therefore considered further in this Notice.
7. On 8 March 2013 the ICO responded. It provided the information requested in relation to the case review figures. It further advised that the policies the complainant had requested could be supplied on a disc and asked him to provide his postal address. The ICO also explained that as it had sought further clarification from the complainant on 12 February 2013 regarding the case review figures, its response to this part of the request was not due until 12 March 2013. It apologised for not having explained this to the complainant at the time.
8. On 10 March 2013 the complainant responded, he said that the ICO already had his postal address and therefore it should send the disc immediately. The complainant also reiterated that he wished to complain about the delay in the ICO's response. The disc was sent to the complainant on 12 March 2013.

Scope of the case

9. The complainant contacted the Commissioner on 10 March 2013 to complain about the way his request for information had been handled. He explained that he was dissatisfied with the length of time it had taken for the ICO to provide him with the information he had requested, furthermore he did not consider that the ICO had provided him with all of the guidance he had requested.
10. During the course of the Commissioner's investigation the ICO carried out an internal review. It provided the complainant with links to the guidance he had requested which were not provided within the original response. It confirmed that it had now provided all information it held. It accepted that it had breached section 10 FOIA in its handling of this request as it had not provided all of the information held within 20 working days of the request being made.
11. The Commissioner has considered whether the ICO complied with the statutory time for compliance in relation to this request.

Reasons for decision

12. Section 10 of FOIA states that, "... 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."
13. In this case the original request was made on 15 January 2013. The ICO did not provide all information relevant to the scope of the request until 12 August 2013.
14. As the ICO did not provide all information relevant to the scope of the request within 20 working days it did not comply with section 10(1) FOIA in handling this request.

Other Matters

15. In this case the ICO did not carry out the internal review until 12 August 2013. The internal review was requested on 10 March 2013. The Section 45 Code of Practice advises that the internal review should be carried out within 40 working days. This was exceeded in this case.

Right of appeal

16. 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

17. 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.
18. 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

Pamela Clements
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SK9 5AF