

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 16 October 2013

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

#### Decision (including any steps ordered)

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1. The complainant submitted a request to the Home Office for information on applications for discretionary leave to remain in the UK on human rights grounds. By the date of this notice the Home Office had yet to provide a substantive response to this request. The Information Commissioner's decision is that the Home Office breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
2. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation:
  - Issue a response under the FOIA.
3. 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 Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### Request and response

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4. On 21 May 2013 the complainant wrote to the Home Office and requested information in the following terms:

*"Can you give me some numbers about how many application [sic] you received, refused and accepted. From September 2012 till today how*

*many Human rights or Article 8 or Discretionary [sic] Leave application have UKBA received? How many was accepted? How many was refused with appeal right? How many was refused with no appeal right."*

5. The Home Office acknowledged receipt of the request on 24 May 2013.
6. In the absence of any response the complainant requested an internal review on 25 June 2013. Following an internal review the Home Office wrote to the complainant on 23 July 2013 apologising for the delay. It stated:

*"Having spoken with the business unit dealing with your request I can assure you that the response is currently in the process of being cleared and we anticipate that we will be able to provide you with a full response within 10 working days from the date of this letter."*

### **Scope of the case**

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7. The complainant contacted the Commissioner on 15 June 2013 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider the fact that no substantive response had been provided.
8. The Commissioner wrote to the Home Office on 2 July 2013 asking it to respond. In the absence of any response, he wrote again on 23 July 2013 advising that the complaint would now be investigated.
9. On 9 October 2013 the Commissioner contacted the complainant who confirmed he had yet to receive any response to his request.
10. No substantive response to the request had been provided by the date of this notice.

### **Reasons for decision**

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11. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
12. Section 10(1) of the FOIA provides 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. From the information provided to the Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.

### *Conclusion*

13. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the requests within the statutory timeframe of 20 working days. At paragraph 2 above the Home Office is now required to respond to the request of 21 May 2013 in accordance with the FOIA.

### **Other matters**

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14. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.
15. The Commissioner would also note here his concern that despite being contacted by both the complainant and the ICO to chase a substantive response to this request, none had been provided by the date of this notice. The Home Office must ensure that this failing is not repeated in relation to future requests.

## Right of appeal

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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](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)

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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**