

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 December 2011

Public Authority: The Department for Transport
Address: Great Minster House
76 Marsham Street
London
SW1P 4DR

Decision (including any steps ordered)

1. The complainant requested some information for correspondence about a sign on a given road. The Department for Transport (the 'DfT') failed to issue any response in 20 working days.
2. The complainant referred the matter to the Information Commissioner ('the Commissioner'). During the course of his investigation, the DfT issued an appropriate response and apologised for the delay that the complainant experienced. The complainant requested a decision notice to record the delays that he experienced.
3. The Commissioner finds that the DfT breached section 10(1) because it failed to comply with section 1(1) of FOIA in 20 working days. He does not require any remedial steps to be taken because an appropriate response has now been issued.

Request and response

4. On 16 August 2011 the complainant requested the following information from the DfT:

Please provide copies of all correspondence to date during 2011 (emails or otherwise) concerning possible authorised traffic signs and/or special directions and proposed parking restrictions relating to this road [Fleet Road, Fleet, Hampshire], between the Department and all/any of Hampshire County Council, Hart District Council, and their contractor Stilwell Partnership.

5. The DfT failed to issue any response in 20 working days and the complainant contacted the Commissioner on 14 October 2011.
6. The Commissioner wrote to the DfT on 7 November 2011 to find out what had happened to this request. The DfT replied the next day to explain that it did receive the request, but it had failed to process it in error and apologised. It promised it would now prioritise the request.
7. On 10 November 2011, the DfT issued its response. It apologised for the delay and provided the complainant with the relevant recorded information that it held.

Scope of the case

8. On 14 October 2011 the complainant contacted the Commissioner to complain that he had not received a response and asked the Commissioner to issue a decision notice under sections 1(1)(b), 10(1) and 17(1) of FOIA.
9. After the response had been issued, the complainant confirmed on 16 November 2011 that he still wanted a decision notice focussing on the delays that he had experienced.

Reasons for decision

10. The Commissioner has therefore considered the DfT's procedural compliance with the legislation.
11. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days and comply with its obligations found in section 1 of the Act (subject to a limited number of exceptions none of which are relevant in this case).
12. The DfT did not respond to the request dated 16 August 2011 until 10 November 2011. It took longer than 20 working days and therefore breached section 10(1) of FOIA.
13. The Commissioner notes that the DfT has apologised to the complainant and the Commissioner about this breach. It confirmed that it was very rare for it to fail to answer a request that it has received.
14. As noted above, the complainant also explained that he believed that the DfT breached sections 1(1)(b) and 17(1) of FOIA. The Commissioner

has decided to provide his view about these sections for the sake of completeness.

15. He agrees with the complainant that on 14 October 2011 the DfT was in breach of section 1(1)(b) of the FOIA. However, the way the FOIA is worded means that section 1(1)(b) does not itself contain a time limit for compliance [that is found in section 10(1)]. As the DfT complied with section 1(1)(b) on 10 November 2011 the Commissioner finds no breach of it at the date of this notice.
16. Section 17(1) requires when a refusal notice is issued, it should be issued in 20 working days. The DfT did not refuse to provide any information in this case and so was not required to issue a refusal notice. As there was no refusal notice, there was also no breach of section 17(1).

Right of appeal

17. 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

18. 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.
19. 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
Group Manager – Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF