

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 July 2012

Public Authority: Civil Service Commission
Address: Civil Service Commission
G/8
1 Horse Guards Road
London
SW1A 2HQ

Decision (including any steps ordered)

1. The complainant requested details of particular complaints made to the public authority. It originally relied on section 41(2) of the Freedom of Information Act 2000 (the Act) to neither confirm nor deny that it held the requested information. However, during the Commissioner's investigation it informed the complainant that it did not hold the information.
2. The Commissioner's decision is that the Civil Service Commission breached section 10(1) of the FOIA by failing to inform the complainant that it did not hold the requested information within 20 working days of receiving the request.

Request and response

3. On 16 November 2011, the complainant wrote to Civil Service Commission and requested information regarding particular complaints made to it.
4. The Civil Service Commission responded on 15 December 2011 it stated that in accordance with section 41(2) of the Act it would neither confirm nor deny it held the requested information as to do so would constitute an actionable breach of confidence.

5. Following an internal review the Civil Service Commission wrote to the complainant on 22 December 2011. It stated that the review upheld the original decision.

Scope of the case

6. On 3 January 2012 the complainant contacted the Commissioner to complain about the way the Civil Service Commission handled his request for information.
7. During the Commissioner's investigation the Civil Service Commission re-considered its position. On 31 May 2012, it informed the complainant that it did not hold the requested information. The complainant requested that the Commissioner recorded this in a decision notice.

Reasons for decision

8. Section 1 of FOIA provides that any person making a request for information to a public authority is entitled—
 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and (if it does)
 - (b) to have that information communicated to him.
9. Section 10(1) of the Act states that
 - "Subject to subsections (2) and (3), 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."
10. In failing to inform the complainant that it did not hold the requested information within 20 working days of receipt of the request the public authority breached section 10(1) of the FOIA. As the public authority has now complied with section 1(1)(a), the Commissioner has not specified any remedial steps.

Right of appeal

11. 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

12. 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.
13. 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

Jo Pedder
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