

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 April 2013

Public Authority: Office for National Statistics

Address: Government Buildings

Cardiff Road

Newport

South Wales

NP10 8XG

Decision (including any steps ordered)

1. The complainant has requested a copy of a particular version of a software template. The Office for National Statistics (ONS) originally refused to supply this information, citing section 43(2) of FOIA as its basis for doing so. During the course of the Commissioner's investigation, the ONS agreed to disclose the requested information; although it subsequently transpired that the ONS no longer held the specific version of the template sought but only a later version. The Commissioner finds that by failing to provide information relevant to the request within 20 working days the ONS breached section 10(1) of FOIA. However, he does not require any steps to be taken as a result of this notice.

Request and response

2. On 31 July 2012 the complainant wrote to the ONS and requested information in the following terms:

"Can you please provide me with the BDB version template version 017 released on 6/1/12."

3. The ONS acknowledged the request on 2 August 2012. It informed the complainant on 29 August 2012 that it required an additional five working days to provide a complete response. This was the time it needed to consider the public interest test attached to the exemption set

out at section 43(2) of FOIA. The ONS confirmed in its substantive response of 4 September 2012 that the requested information engaged section 43(2) of FOIA and the public interest favoured the maintaining of the exemption.

4. The complainant wrote to the ONS on 6 September 2012 and invited it to reconsider its response. He followed this up on 14 September 2012 by asking the ONS to acknowledge his request for an internal review. The complainant further asked that the ONS take care to ensure the requested information had been placed in a secure environment.
5. The ONS subsequently carried out an internal review, the outcome of which was provided to the complainant on 11 October 2012. This upheld the ONS' original position.

Scope of the case

6. The complainant contacted the Commissioner 18 October 2012 to complain about the decision of the ONS to withhold information in response to his request.
7. As the culmination of discussions between the parties, on 28 February 2012 the ONS informed the Commissioner that it was prepared to disclose the relevant information it held under FOIA. This was provided to the complainant a few days later. Upon its receipt, the complainant highlighted the fact that the version of the template supplied was dated 18 January 2012 and not the version produced on 6 January 2012 as specified in the request. The ONS has subsequently confirmed that it does not hold any other versions between 6 and 18 January 2012.
8. In light of the developments on the case, and the disclosure of the relevant information subject to the request, the Commissioner has not been required to consider the ONS' original application of section 43(2).

Reasons for decision

Section 10(1) – time for compliance

9. Section 10(1) of FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that the request was received. Section 1(1) states that a public authority should confirm whether it holds relevant recorded information and, if so, to communicate that information to the applicant.

10. In this case the ONS disclosed the relevant information it held, albeit not the software version identified in the request, outside of the statutory time limit for compliance with requests. The Commissioner has therefore found that the ONS breached the requirements of section 10(1) of FOIA.

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

Rachael Cragg
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