

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 August 2018

**Public Authority:** Cabinet Office

**Address:** 70 Whitehall

London

SW1A 2AS

### Decision (including any steps ordered)

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1. The complainant requested the briefing notes presented to the Prime Minister prior to her decision to invoke Article 50 of the Treaty of Lisbon.
2. The Commissioner's decision is that the Cabinet Office failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the Cabinet Office to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The Cabinet Office 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 FOIA and may be dealt with as a contempt of court.

### Request and response

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5. On 18 June 2018, the complainant wrote to the Cabinet Office and requested information in the following terms:

*"Please supply all materials considered by the Prime Minister when making her Article 50(1) decision including: impact assessments on economic consequences; human rights; civil liberties; equality and environment; the resourcing of the civil service necessary to support*

*withdrawal and ongoing impact; the likely future relationship with the EU and the evidence taken into account in making that assessment, including communications from the EU Council, assessment of the impact on the functioning of the devolution settlements and the Good Friday Agreement, and on impact of relationship with other states with whom by virtue of its membership of the EU, the U.K. is in a trade agreement, and the impact on Gibraltar and citizens of Crown Dependencies such as Bermuda.”*

6. The Cabinet Office acknowledged the request on the same day but had failed to provide a substantive response by the date of this notice.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 19 July 2018 to complain about the failure, by the Cabinet Office, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Cabinet Office on 2 August 2018 to highlight the outstanding response. She requested that the Cabinet Office respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. In view of the fact that the response to the request remains outstanding, despite her intervention, the Commissioner considers that a decision notice is appropriate in this case.
10. The scope of this DN and the following analysis is to consider whether Cabinet Office has complied with Section 10 of the FOIA.

### **Reasons for decision**

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11. Section 1(1) of the FOIA states 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*
- (b) if that is the case, to have that information communicated to him.*

12. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
  - (b) states the name of the applicant and an address for correspondence, and*
  - (c) describes the information requested.*
13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Cabinet Office has breached Section 10 of the FOIA.

## 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

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 .....**

**Ben Tomes  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**