

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 1 May 2024

Public Authority: Ministry of Defence
Address: Whitehall
London
SW1A 2HB

Decision (including any steps ordered)

1. The complainant requested information about shooting hubs and armoury alarms held by the RAF Air Cadets.
2. The Commissioner's decision is that the above public authority ("the public authority") failed to respond to the request within 20 working days and has therefore breached section 10 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under FOIA, to the request.
4. The public authority must take these steps within 30 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

5. On 28 January 2024, the complainant wrote to the public authority and requested information in the following terms:

"Please provide a full cost breakdown for the armoury alarms and shooting hubs in the whole organisation. If this is too much and would attract an exemption, please focus on South West Region of the Royal Air Force Air Cadets instead.

"Please also provide copies of all emails, teams messages and documents discussing the costs of shooting in the organisation. Again, if this is too much just focus on the South West region. For clarity I would like anything relating to the decision to reduce these costs and any related correspondence involving shooting, the storage of weaponry, and the armoury alarm systems.

"The above should be focused on the emails and messages between the regional commandant South West, the chief of staff and anyone else in the Region there if too much information is held. This could be narrowed further to just the regional commandant and chief of staff if required. However, if in scope, I would like all correspondence between everyone involved in the organisation."

6. The public authority responded to the request on 7 March 2024. It stated that it had "reason to believe that your request may be invalid" because the complainant had not used their real name and that it required some form of identification, from the complainant, before it would process the request. It provided no justification or evidence to support its belief that the request was not valid.
7. The complainant provided ID on the same day. The public authority sent a further email on 13 March 2024, announcing that it was dealing with the request as a fresh request, received on 7 March 2024 and that it would respond by 9 April 2024. At the date of this notice, no substantive response had been received.

Reasons for decision

8. The Commissioner considers that the request in question constituted a valid request for recorded information under FOIA.
9. 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 (which has occurred whether the request was deemed to have been "received" on 28 January 2024 or 7 March 2024), the public authority has breached section 10 of FOIA and it must now issue a substantive response within 30 calendar days.

Other matters

10. In its response to the complainant of 7 March 2024, the public authority quoted at length from the Commissioner's own guidance on recognising valid requests. It did not however quote the section that advises public authorities that, if it is not obvious that the requester has not used their real name:

"in the Commissioner's view, **it is unlikely that you will have to take steps to check the requester's identity in order to process the request.** You should not need to routinely check identities - in most cases it will be appropriate to accept the name that has been provided at face value and respond to the request in the normal way."¹
[emphasis added]

11. The Commissioner would also note that, if the public authority was genuinely concerned that the complainant had not used their real name, it should have informed them promptly and well before the 20 working day deadline. It is unacceptable that the public authority had already exceeded that deadline before requiring identification.

12. Given that the breach would have occurred either way, the Commissioner does not need to determine whether it was reasonable in the circumstances for the public authority to have requested ID before processing the request. However, he wishes to make clear that the public authority should not be routinely asking requesters for ID and that, where it does have genuine concerns, it should seek ID at the earliest opportunity so that genuine requesters are not unnecessarily disadvantaged.

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/recognising-a-request-made-under-the-freedom-of-information-act-section-8/#whatismeant>

Right of appeal

13. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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.
15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Roger Cawthorne
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF