

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 01 May 2012

Public Authority: Department for Education
Address: Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Decision

1. The complainant made a freedom of information request to the Department for Education (DfE) for guidance given to the Secretary of State, Michael Gove concerning the security of his communications. The complainant has not received a substantive response to this request.
2. The Commissioner's decision is that the DfE has breached section 10(1) of FOIA by failing to respond to the complainant's request within 20 working days. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - State which information it holds within the scope of the complainant's request, and
 - Communicate the information it holds to the complainant and/or issue a refusal notice in respect of all or parts of the information it intends to withhold in accordance with section 17 of the FOIA.
3. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 21 September 2011 the complainant made a freedom of information request to the Department for Education which read as follows:

"Please disclose any guidance to Michael Gove concerning the security of his communications, particularly any instructions concerning the secure use of, or access to DfE email services."

5. The Dfe acknowledged receipt of the request on 23 September 2011.
6. On 20 October 2011 the complainant contacted the DfE noting that the response to his request had exceeded the 20 working day deadline and was now overdue.

Scope of the case

7. On 17 November 2011 the complainant contacted the Commissioner to complain about the DfE's failure to respond to his request.

Reasons for decision

8. Section 1(1) of the 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
 - (b) If that is the case, to have that information communicated to him.
9. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working following the date of receipt.
10. In this case the complainant made his request to the DfE on 21 September 2011. However, other than an acknowledgment email, the DfE has not provided a response to the request. Consequently the Commissioner finds that the DfE has breached section 10(1) of the FOIA by failing to comply with its obligations under section 1(1).

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

Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF