

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 12 March 2014

**Public Authority:** Home Office  
**Address:** 2 Marsham Street  
London  
SW1P 4DF

#### **Decision (including any steps ordered)**

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1. The complainant requested information about the use of Tasers. Despite a number of letters committing to provide a response, the Home Office has, by the date of this notice, yet to provide a substantive response to the request.
2. The Information Commissioner's decision is that the Home Office breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
3. The Commissioner requires the Home Office to take the following steps to ensure compliance with the legislation:
  - issue a response under the FOIA.
4. 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

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5. On 10 September 2013 the complainant wrote to the Home Office and requested information in the following terms:

*"Under the terms of the Freedom of Information Act I would like to request the following data*

- 1) Subjects exposed to the use of a TASER per officer defined ethnicity for the following periods*

*Jan 2009 – Dec 2009 inclusive*

*Jan 2010 – Dec 2010 inclusive*

*Jan 2011 – Dec 2011 inclusive*

- 2) Subjects exposed to the use of a TASER per age accurately specified (excludes estimated ages) for the following periods*

*Jan 2009 – Dec 2009*

*Jan 2010 - Dec 2010*

*Jan 2011 – Dec 2011*

- 3) Subjects exposed to the use of a TASER per age, including estimated ages, for the following periods*

*Jan 2009 – Dec 2009*

*Jan 2010 - Dec 2010*

*Jan 2011 – Dec 2011*

*For guidance, "use" as defined by the ACPO operational guidance. I am using this*

*<https://www.whatdotheyknow.com/request/29180/response/84102/attach/4/FoI%20HMP%20Britain%2030%20Apr%2010%20CHussain%20V2.pdf> reply to a previous FoI as the template as to what I'm looking for."*

6. The Home Office wrote to the complainant on 9 October 2013 advising that it would not be in a position to respond within 20 working days due to *"data capture issues"*. It apologised for the delay and said it would aim to send a response by 22 October 2013.
7. In the absence of any response, the complainant wrote to the Home Office on 5 November 2013. The Home Office treated this as an internal

review which it carried out on 15 November 2013. It acknowledged the delay, apologised again and said that the Home Office would aim to provide its response within the next two weeks.

8. On 16 December 2013, the complainant again contacted the Home Office to chase the response. He received a letter on 19 December 2013 with a further apology from the Home Office, which included an assurance that his request was under "*active consideration*" and advised that the response would be provided "*soon*".
9. On 20 December 2013 the complainant queried the reasons for the ongoing delays and asked when he should expect to receive a response. The Home Office did not reply.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 28 January 2014 to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided.
11. On 31 January 2014 the Commissioner wrote to the Home Office to advise it that the complaint had been accepted. On 3 February 2014 the Home Office contacted the Commissioner to advise that the delay was due to seeking legal advice and said that Ministerial clearance would be required once a draft response had been prepared.
12. On 25 February 2014 the Commissioner contacted the complainant who confirmed he had yet to receive any response to his request.
13. The request was made on 10 September 2013. Despite the Home Office's explanation on 3 February 2014, no substantive response to the request had been provided by the date of this notice.

### **Reasons for decision**

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14. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.
15. 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 day following the date of receipt. From the information provided

to the Commissioner it is evident that the Home Office did not respond to the complainant within the statutory timeframe in respect of this request.

*Conclusion*

16. The Commissioner's decision is that the Home Office did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the Home Office is now required to respond to the request of 10 September 2013 in accordance with the FOIA.

**Other matters**

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17. As well as finding above that the Home Office is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Home Office should evidence from other cases suggest that there are systemic issues within the Home Office that are causing delays.

## Right of appeal

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18. 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: [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)

19. 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.
20. 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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**