

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 October 2015

**Public Authority:** Department for Communities and Local Government

**Address:** 2 Marsham Street  
London  
SW1P 4DF

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to storage grants for prisoners. The Department for Communities and Local Government stated that it did not hold the requested information.
2. The Commissioner's decision is that the Department for Communities and Local Government failed to reply to the request within the statutory time limit and breached section 10(1) of the FOIA.
3. The Commissioner does not require the public authority to take any steps.

#### Request and response

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4. On 8 April 2015, the complainant wrote to The Department for Communities and Local Government (the 'DCLG') and requested information in the following terms:

*"I would like to know;*

*1. Does a person who is going to prison receive a grant towards the storage of their personal home belongings from;*

*a) the Government or*

*b) the Local Authority of which the person is resident*

*If there is a grant available;*

*c) who administers the grant and*

*d) what is i) size of the storage and ii) the length of period that a grant is available?"*

5. Having not received a response the complainant re-submitted their request on 1 June 2015 and again on 23 June 2015.
6. The DCLG responded on 2 September 2015. It stated that it had no record of receiving the original request of 8 April 2015 and advised the complainant that, since receiving the re-submitted request, it had been attempting to determine which government department would be best placed to assist the complainant. The DCLG confirmed that the requested information was not held and advised the complainant to refer their request to prisoners' charities.

### **Scope of the case**

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7. On 11 August 2015 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
8. The complainant advised the Commissioner that DCLG had failed to respond to their request for information. Following the Commissioner's intervention DCLG responded to the request on 2 September 2015.
9. The complainant has asked the Commissioner to consider whether DCLG responded to their request within the statutory time limit.

### **Reasons for decision**

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#### **Section 8 – request for information**

10. Section 8(1) of the FOIA defines a valid request for information as 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."*

11. In issuing its response to the complainant DCLG advised the Commissioner that it had handled the request as normal business rather than as a request under the FOIA. As it did not consider the request to

be valid it, therefore, did not consider that a response was required within the statutory timescale.

12. The Commissioner's guidance states that "...a request in the form of a question will be valid under Section 8(1)(c), provided it still describes distinguishing characteristics of the information."<sup>1</sup>
13. Having considered the request the Commissioner is of the view that, whilst this takes the form of a question, it clearly describes information which DCLG might conceivably hold. He, therefore, considers that the request constitutes a valid request as defined by section 8(1) of the FOIA.

### **Section 1 – duty to provide requested information**

14. Under section 1(1) of the FOIA, 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."*
15. Section 10(1) of the FOIA requires a public authority to comply with the duty under section 1(1) within 20 working days of the date of receipt of the request.
16. In this instance the complainant originally submitted their request on 8 April 2015; however, DCLG has stated that it has no record of the request being received. The Commissioner has not evidence to contradict this so he has taken the date of receipt to be 1 June 2015.
17. The Commissioner has, therefore, concluded that in responding to the request on 2 September 2015 the DCLG failed to reply within the statutory time limit and breached section 10(1) of the FOIA.

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

## 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: 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)

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 .....**

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