

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

### **Decision notice**

**Date:** 21 January 2022

**Public Authority:** Department for Digital, Culture, Media and Sport

**Address:** 100 Parliament Street  
London  
SW1A 2BQ

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

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1. The complainant requested from the Department for Digital, Culture, Media and Sport (DCMS) information relating to the Grade II Listed 'PLUTO pavilion' at Sandown, Isle of Wight. By the date of this notice, DCMS had not issued a substantive response to this request.
2. The Commissioner's decision is that DCMS has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of the FOIA.
3. The Commissioner requires DCMS to take the following steps to ensure compliance with the legislation:
  - Having confirmed that information is held within the scope of the request, either disclose the requested information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. DCMS 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 13 August 2021, the complainant made the following request for information to DCMS:

“The Grade II Listed 'PLUTO pavilion' at Sandown, Isle of Wight

Please supply copies of all correspondence relating to the above listed item. Include correspondence covering both internal and with external bodies subject to FOI obligations. Please include all types of documents, including any minutes of discussions.

The items should date from 1/11/2020 until the present day.”

6. On 13 September 2021, DCMS wrote to the complainant to explain that it held information relevant to the complainant’s request, but that it would need to extend the time taken to complete its public interest test considerations in respect of an exemption under section 36 of the FOIA.
7. The complainant followed up their request with DCMS on 16 October 2021.
8. To date, the complainant has not received a substantial response to their request for information.

## Scope of the case

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9. The complainant contacted the Commissioner on 7 November 2021 to complain about the delay in DCMS’ consideration of the public interest test.
10. On 13 November 2021 the Commissioner wrote to DCMS reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 13 November 2021 to explain that DCMS had been given 10 working days from that date to provide a response to their request.
12. The complainant contacted the Commissioner on 10 January 2022 confirming that they had still not received a response to their FOIA request from DCMS.
13. The Commissioner left a message with DCMS on 13 January 2022, asking someone to call him back about this matter, but he never received a call back.

14. The Commissioner has considered whether DCMS has complied with its obligations in relation to section 17 of the FOIA.

### **Reasons for decision**

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15. 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.”

16. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
17. Section 17(3) of the FOIA states that where a public authority is relying on a qualified exemption, it can have a “reasonable” extension of time to consider the public interest in maintaining the exemption or disclosing the information.
18. Although the FOIA does not define what constitutes a reasonable time, the Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days. This means that the total time spent dealing with the request should not exceed 40 working days unless there are exceptional circumstances. A public authority would need to fully justify any extension beyond 40 working days.
19. In this case, the total time taken by the DCMS has exceeded 40 working days. The Commissioner does not consider there to be any exceptional circumstances and finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, DCMS has not complied with section 17(3).
20. DCMS is now required to finalise its public interest considerations under section 17(3) of the FOIA and respond to the complainant.

## Right of appeal

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21. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

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

22. 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.
23. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**