

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 April 2020

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

Decision (including any steps ordered)

1. The complainant requested information relating to an immigration enforcement raid. The Home Office provided some information in its response and some further information following an internal review.
2. The Commissioner's decision is that whilst the Home Office has now discharged both its section 1(1)(a) and 1(1)(b) duties, it failed to do so within 20 working days. It therefore breached section 10 of the FOIA.
3. The Commissioner does not require any further steps.

Request and response

4. On 17 September 2019, the complainant wrote to the Home Office and requested information in the following terms:

"I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000 (FOIA).

- (1) How many workplace raids on restaurants and takeaways have been carried out in the London Borough of Waltham Forest (LBWF) for the period 1 January 2014 - 1 January 2019.*
- (2) On 12 September 2019, a workplace raid took place at the [address redacted]. Please provide:-*
 - a) The statutory power/specific legislation under which a search was executed (with warrant).*

- b) *A copy of the warrant.*
 - c) *Confirmation of whether you were working on "intelligence" or "tip-offs."*
 - d) *Whether the aforementioned premises have been subject to a workplace raid in the past. If so, for what year/years?*
- (3) *The amount of money spent on the raid (*including any preliminary work in preparation)?*
- (4) *The amount of staff who were deployed for the raid? And the length of time spent on the premises?*
- (5) *Details of the outcome of the raid. Please provide:-*
- a) *How many arrests were made?*
 - b) *How many employees were found to be in contravention of the law?*
 - c) *Were there any customers on the premises at the time of the raid?*
 - d) *The name of the officer in charge of the raid?*
- (6) *How many council officers accompanied immigration officers on the raid? And when the council were notified that their attendance would be necessary?*
- (7) *Whether any cultural sensitivities were considered prior to the raid? e.g. the inclusion and mix of immigration staff from particular racial groups.*

"I would like the above information to be provided to me in paper format...."

5. The Home Office responded on 9 October 2019. It refused elements (2c) and (5d) relying on section 31 (law enforcement) and 40(2) of the FOIA (third party personal data) respectively to do so. The Home Office provided information in respect of all the remaining elements of the request with the exception of elements (2b), (3) and (5c).
6. Following an internal review the Home Office wrote to the complainant on 12 March 2020. It provided some further information in respect of element (1) and clarified that it held no information in respect of elements (2b), and (3). It further clarified its response to element (5c).

Scope of the case

7. The complainant first contacted the Commissioner on 2 December 2019 to complain about the way her request for information had been handled. At that point the Home Office had yet to complete its internal review. Given the delays, the Commissioner exercised her discretion and accepted the case for investigation without waiting for the Home Office to complete its internal review.
8. In response to the Commissioner's investigation letter, the Home Office decided to complete its internal review and clarified several elements of its initial response. It also provided responses to some additional information which the complainant had sought in her request for an internal review.
9. The complainant contacted the Commissioner on 25 March 2020. She did not challenge the Home Office's use of the exemptions and appeared to accept that it had provided all the remaining information that it held relevant to the request. However, she asked the Commissioner to issue a decision notice addressing the procedural handling of the request.
10. The Commissioner has therefore considered whether the Home Office complied with section 10 of the FOIA when dealing with the request.

Reasons for decision

11. 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.*

12. Section 10 of the FOIA states a public authority must comply with its section 1(1) duties "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
13. The complainant pointed out, in her internal review request that the Home Office had provided, in respect of element (1), data for 1 January 2014 - 31 December 2018, when she had sought data up to 1 January 2019.

14. In its internal review, the Home Office admitted that it had not used the correct parameters for responding to the request, but noted that, as it had not carried out any raids on New Year's Day 2019, it did not hold any further information anyway.
15. The Commissioner also notes that the Home Office, in answering element (2b) of the request, referred the complainant to its answer to element (2a). It failed to explain that, because the power it had relied upon to carry out the raid did not require a warrant to be served beforehand, it did not in fact hold information within the scope of this element of the request.
16. In respect of element (3), the Home Office initially explained that:

"It is not possible to accurately cost this enforcement visit...we do not prepare enforcement activity in isolation and it would not be appropriate to suggest a figure based on an assumption of time allotted to this specific visit."
17. In its internal review, the Home Office clarified that it did not hold the information as it could not separate out the costs of the individual raid specified in the request from its other work.
18. From the evidence presented to the Commissioner in this case, it is clear that the Home Office failed to comply with its section 1(1) duty when it first responded to the complainant's request. Whilst it addressed these deficiencies in its internal review, because this was done outside 20 working days, the Home Office breached section 10 of the FOIA.

Other matters

Internal Review

19. Whilst there is no statutory time limit, within the FOIA, for carrying out an internal review, the Commissioner considers that internal reviews should normally take no longer than 20 working days and never longer than 40 working days.
20. The Commissioner notes that it took the Home Office five months and her own intervention to inform the complainant of the outcome of its internal review. She regards this as being poor practice.

Right of appeal

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

Website: 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

Phillip Angell
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